

# the HUMAN LIFE REVIEW



SUMMER 2010

*Featured in this issue:*

William McGurn on . . . . . The Gift of a Child  
Kathryn Jean Lopez on . . . . . A Potent Political Cocktail  
Sarah Palin introduces . . . . . The Mama Grizzlies  
James T. Grady on . . . . . The Scott Brown Election  
George McKenna does some . . . . . Thinking About Tea Parties  
William Murchison on . . . . . A Medi-scary Appointment  
Mary Meehan on . . . . . Outfoxing the Grim Reaper  
Stephen Vincent on . . . . . To Be or Not to Be?  
William L. Saunders on . . . . . An International Abortion Right  
Patrick Mullaney on . . . . . Principles and Practicalities

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FROM THE ARCHIVES: Sondra Diamond reflects  
On Being Alive (1977)

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*Also in this issue:*

Patrick J. Buchanan • George Weigel • Adam Keiper & Yuval Levin  
Elizabeth Marquardt • Vardit Ravitsky & Joanna E. Scheib • Anna Halpine  
& Greg Pfundstein • Carolyn Moynihan • Mary Rose Somarriba

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. . . it is with some sadness that we look forward to the Human Life Foundation's Great Defender of Life award dinner this year, as one of our dear friends and benefactors—who hosted what was always the jolliest table every year—died this past August. Anne Higgins handled correspondence for three presidents, and was director of the White House Office of Presidential Correspondence under Ronald Reagan; she was also a charter member of our late founding editor J.P. McFadden's abortion-war platoon. "If you were a good friend of Anne's," Pat Buchanan, her old buddy and one-time boss, chuckled during the eulogy he delivered at her Funeral Mass in Washington, D.C., "you had a good shot at working, at least as a volunteer, in the White House." Mr. Buchanan has graciously allowed us to reprint his original eulogy—he also saluted Anne in a column adapted from it—in *Appendix A* (p. 105).

As it happens, this year's Great Defender of Life honoree is another former White House employee: William McGurn, *Wall Street Journal* columnist, long-time *Review* contributor, and chief speechwriter for George W. Bush from June 2006 until February 2008. We open this issue with McGurn's beautiful reminiscence of his oldest daughter's adoption ("The Gift of a Child," p. 7); the text of his dinner address will appear in an upcoming issue.

As I write, fall is just days away. Politics, of course, is always with us but this fall's election promises to be A Very Big Deal indeed. James T. Grady, a new contributor we welcome here, offers a few "Notes" on what turned out to be another big election: Scott Brown's wresting of the "Kennedy Senate Seat" from Democrats last January ("Notes on the Scott Brown Election," page 34). Grady, a Massachusetts resident and former General Counsel for the International Brotherhood of Teamsters, knows a thing or two about politics. As does Sarah Palin, whose recent speech to supporters of the Susan B. Anthony List—a DC-based group that promotes female pro-life candidates—we are delighted to reprint here ("Don't Mess with Mama Grizzlies," p. 25). This issue also features the text of an eye-opening speech given by William Saunders, Senior Vice President of Americans United for Life, at a pro-life conference at Columbia University law school last spring ("The ABCs of an International Right to Abortion," p. 84).

Speaking of eye-opening, George Weigel, whose column on the resiliency (to date) of the Hyde Amendment (which bans most federal funding of abortion) appears in *Appendix B* (p. 108), says the first third of his just-published new book on Pope John Paul II reads "like a spy novel." Drawing on intelligence-agency material available only since the fall of the Soviet Union, *The End and the Beginning* (Random House) documents how the Soviets spent "billions of manhours" and "millions of dollars" in a decades-long effort to bring down Karol Wojtyla, the man who when he became Pope bellowed "Be not afraid" in the face of their foul philosophy and, well, you know the rest.

ANNE CONLON  
MANAGING EDITOR



# the HUMAN LIFE REVIEW

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## INTRODUCTION

At the heart of the abortion issue is the promise of a child. Barring miscarriage or abortion, conception both “promises” the birth of a child and creates the hope of a new human being *with* promise. If parenthood is an act of stepping out into the unknown, with hopes and fears, abortion is an attempt to step *back*, rejecting the offer of parenthood entirely. But it is not possible to go back, and so the parents live on, their decision to reject the possibilities offered often haunting their future, and the child’s life brutally ended almost as soon as it has begun.

These are the sad musings always before me as I edit a journal primarily devoted to arguing against abortion, the backdrop against which each issue is put together. Yet before we get to current realities of the ongoing battle for the defense of the unborn, we lead off this issue of our *Review* with a *joyful* story, about parenthood keenly desired and fully embraced, in “The Gift of a Child.”

William McGurn, the “Main Street” columnist at the *Wall Street Journal* and former chief speechwriter for President George W. Bush, will be honored this fall with our Foundation’s 2010 Great Defender of Life award. McGurn has been an eloquent and persistent defender of life throughout his career in news journalism, a business not known for being open to the pro-life message. He has also given several compelling speeches for life, including his address at his alma mater Notre Dame last spring (which we reprinted in our Winter/Spring 2009 issue), preceding the infamous visit of President Barack Obama. But what we chose to bring you here is a personal story—his account, which first appeared in *Notre Dame Magazine*, of the adoption of his first daughter, Grace, from China (followed by an update about her two younger sisters).

Bill wrote that this is the article of which he is most proud, and that he wrote it to offer some help to would-be adoptive parents. It will inspire: It is the beautiful story of a man and woman who surrendered their choices in parenting to the “Author of all Life” and learned that His plan for them far exceeded what they could have envisioned.

*National Review*’s Kathryn J. Lopez brings us back to today, opening with a kind of fractured beatitude: “Blessed is he who followed the health-care debate this year regarding abortion and did not get whiplash.” The debate was hard to comprehend because of “lies, damned lies, and backfired lies,” part of President Obama’s “obfuscation strategy,” meant to hide his radicalism on abortion and to “confuse and complicate” (it worked). Lopez guides us through the twists and turns of the political battles—including the “Catholic chaos” that arose when some Catholic nuns came out in support of the bill, setting themselves against the U.S. Conference of Catholic Bishops *and* scores of their fellow women religious in America. Despite the obvious bad news of Obama’s “health-care will” being done, Lopez argues that because “the abortion issue was at the heart of the contentious health-care fight,” there may be some good news for the pro-life movement from the

experience—if the right lessons are learned.

Prior to Michigan Democrat Bart Stupak's surrender to the Obamacare juggernaut, he was to have been given the Defender of Life award at the annual gala of the Susan B. Anthony List, the organization that supports pro-life women candidates. On March 21, two days before the gala, SBA President Marjorie Dannenfelser announced that the organization was rescinding the award: "By accepting this deal from the most pro-abortion president in American history," she said, "Stupak has not only failed to stand strong for unborn children, but also for his constituents and pro-life voters across the country." In our Spring issue, we brought you Minnesota Governor Tim Pawlenty's speech from that same gala; in this issue, we are delighted to have Governor Sarah Palin's address, which we've titled "Don't Mess with Mama Grizzlies," given to the SBA List at the occasion of their Celebrate Life Breakfast last May 14th.

This is the speech in which Palin introduced her now famous image about the up-and-coming female political candidates: that they are like Mama Grizzly bears, who "rise up on their hind legs when somebody's coming to attack their cubs." (This image took off in such a big way that the pro-abortion EMILY's List responded by running a video with their own Mama Grizzlies—it is so badly done it is hilarious! You may watch it at <http://sarahdoesntspeakeforme.com> or on YouTube). Palin salutes the SBA List for being "front and center during the Obamacare debate," and for being among those "leading the charge" of women "coming together to take this country back," pointing out that the group is "returning the women's movement back to its original roots" (a reference to the fact that Susan B. Anthony and Elizabeth Cady Stanton were strongly pro-life). Palin also speaks with moving honesty and joy about her son Trig, who has Down syndrome. Like the McGurns, she has found that surrendering her "choices" in parenting to God has resulted in her youngest child being "the best thing that has ever happened to me and to the Palin family."

The Susan B. Anthony List was founded (in 1992) in response to the well-funded (since 1985) EMILY's List, which is "dedicated to building a progressive America by electing pro-choice Democratic women to office." Their strategy? Well the acronym means "Early Money is Like Yeast," as Massachusetts native and retired attorney James T. Grady tells us in "Notes on the Scott Brown Election," and EMILY'S List did campaign early and aggressively for attorney general Martha Coakley's bid for the late Edward Kennedy's Senate seat last fall. But as we know, a late surge for Republican Scott Brown won him the election. Massachusetts Citizens for Life came out in support for Brown, who is "pro-choice" but much less radically so than Coakley (Grady provides a table which delineates their positions on abortion-related legislation) for which the group was heavily criticized by some in the pro-life movement, even though Brown's victory was widely seen (then) as a viable opportunity for preventing the passage of Obamacare. Grady reviews the facts and argues that, on traditional theological and philosophical principles, MCFL acted correctly.

Sarah Palin is certainly an enthusiastic Tea Party supporter, as are many of those who vote pro-life, but Professor George McKenna is not so sure. In “Thinking About Tea Parties,” he says “as a pro-lifer I am ambivalent about the movement”; on the one hand, hopeful that Tea Partiers and pro-lifers may “be able to converge on a common goal,” but at the same time “perplexed”—why doesn’t the movement that fans call one of social justice and restoring America’s “moral culture” not have a “plank calling for the protection of human life?” McKenna’s brilliant understanding of American history and politics, and of human nature, makes his article a must-read: It is a detailed, thoughtful examination of the Tea Party movement’s strengths and potential dangers, as well as a frank appraisal of what we are all up against: the determination of President Obama—made frighteningly clear, as McKenna shows us, by the nature of those he has appointed to powerful positions—to transform our society into one which embraces the culture of death.

The descent into a pervasive culture of death is the subject of senior editor William Murchison’s article, which follows McKenna’s. He writes that the “slippery slope” is “among the hoariest arguments in politics,” but “with regard to human life questions, the effects of the slippery slope are easily documented and painfully observed.” The *Roe v. Wade* decision and its official disrespect for unborn life has led inexorably to the growing acceptance of assisted suicide (which is now legal in three states) and the rationing of health care to those deemed “worthy.” Murchison tells us about Obama’s “Medi-scary Appointment,” of one Dr. Donald Berwick to the top supervisory position at Medicare and Medicaid. Dr. Berwick is a self-professed lover of Britain’s National Health Service, who believes that cost-effectiveness must trump individual self-interest and that Americans should not “enforce through choice” the configurations of our health system, that is “for leaders to do.”

All this is especially frightening when we look back and see that some “leaders” have been promoting euthanasia for decades. In *From the Archives*, we reprint a 1977 piece by Sondra Diamond, a professional counselor from Philadelphia physically disabled from cerebral palsy. She tells us about a 1973 *Newsweek* article titled “Shall This Child Die?” which is about doctors at the Yale-New Haven Hospital who were illegally withholding medical treatments from babies born with birth defects because they were “vegetables” who had no hope of achieving “meaningful humanhood.” They wrote advocating that the law be changed to allow euthanasia for these children. Ms. Diamond wrote to *Newsweek* in protest (quipping that she bet this was the first letter they’d received from a vegetable); in her essay for the *Review*, “On Being Alive,” she writes that “being disabled is not intrinsically a burden,” it is society itself that sees it as a burden, leading to the assumption that the disabled would be better off dead. She asserts the rights of the disabled “to appreciate the gift of life, to celebrate it *for* itself.”

The gift of life is tragically discarded through suicide. Years ago, I volunteered as a telephone counselor for the Samaritans—a suicide prevention organization. Even then, when the prevalent assumption in the culture was that all suicides *ought*

to be prevented, the Samaritans had a policy that gave the individual the ultimate choice—we counselors were instructed to listen with compassion and do all we could to persuade callers that their lives were worth living, but if a caller hung up we could not dial 911 or trace a call. I have been wondering recently, with the pendulum shifting toward “choice” for suicide as well, how suicide prevention in general may have changed. So I was intrigued when senior editor Mary Meehan told us she wanted to do a piece on suicide, and grateful when I read her excellent article “Outfoxing the Grim Reaper.” Meehan outlines the current approach of several prevention organizations, including the Samaritans, and she explores the reasons people are “pushed over the edge.” Most importantly, she introduces us to some promising approaches, like Solution-Focused Brief Therapy, and has gathered advice from experts so that the reader can learn more about how he or she might prevent a suicide from happening. As the late Dr. Edward Shneidman put it, Meehan writes, “each individual can be a life-saver, a one-person committee to prevent suicide.”

Believing that life is a gift that ought not be thrown away is *not* what Dr. Peter Singer, “father” of the animal rights movement, is known for: *au contraire*, he believes that there are many human lives just unworthy to be lived. Last June in an online *New York Times* column entitled “Should This Be the Last Generation?” Singer summarized a book by David Benatar called *Better Never to Have Been: The Harm of Coming Into Existence*. Contributor Stephen Vincent in “To Be or Not to Be,” examines Singer’s column and the “reasoning” he displays, which, Vincent says, despite its being in a column about philosophy, is really “the antithesis of philosophy. If one were to take him seriously, it would mean obliterating 2000 years of human effort,” a history of philosophy and the western Judeo-Christian tradition that is concerned with the “good of mankind” and the intrinsic value of human life. Vincent warns us that Singer’s kind of “dualistic utilitarianism,” though not new in history, has taken hold in “much of Western culture over the last 50 years” and needs to be energetically rebutted—for the sake of our children and grandchildren.

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We lead off our *Appendices* with Pat Buchanan’s moving tribute to our dear friend and colleague Anne V. Higgins, who passed away in August. A beloved colleague of my late father J.P. McFadden, Anne played a key role in conveying our *Review*’s interest in procuring an original article to her boss, President Ronald Reagan; his *Abortion and the Conscience of the Nation* was published in our *Spring* 1983 issue. Anne was also a close friend of the late Congressman Henry Hyde, whose Hyde Amendment is commended in *Appendix B*, a column by George Weigel. In *Appendix C*, Adam Keiper and Yuval Levin discuss recent court battles over embryonic stem-cell research. *Appendices D* (by Elizabeth Marquardt) and *E* (by Vardit Ravitsky and Joanna E. Scheib) discuss the dilemmas faced by “donor-con-

## INTRODUCTION

ceived individuals” who want to find their parents. *Appendix F* is Anna Halpin and Greg Pfundstein’s report on “Politicizing Aid at the G8 summit,” where abortion proponents derailed some worthy programs for mothers and infants. In *Appendix G*, Carolyn Moynihan marks the 50th anniversary of the Pill—finding that women are more like “Prisoners of the Pill” than benefactors. And in our final column, *First Things*’ Mary Rose Somaribba writes about the continuing difficulties abortion “providers” have in gaining acceptance from the medical community. “America and abortion have always been an uneasy match,” she writes, and in many ways, “abortion will always be in the back alley of public life. Just like, for many post-abortive women, it remains in the back alley of their minds: It’s not a place they’re proud of, not a place they’d like to linger, not a memory they’d like to revisit. It’s a back alley they’d like to leave in the dust. And who can blame them?”

MARIA McFADDEN  
EDITOR

# The Gift of a Child

William McGurn

Earlier this year, at the tail end of a 24-hour Hong Kong-Tokyo-New York flight, my wife, Julie, was at wit's end. The trip was a last-minute thing, put together after a phone call telling us that her grandmother had suffered a heart attack. In the best of circumstances it is not an easy flight. With an 18-month-old in tow, and no husband to switch off with, it ruled out any chance for rest.

As the plane pulled into the gate at Kennedy, my wife packed up the detritus of a trip with baby—the much-abused copy of *Goodnight Moon*, the favorite pink blanket, the half-empty bottles of milk. A United Airlines steward of Asian descent passed by. “From China?” he asked, noting the discrepancy between Julie, an Irish-American redhead, and our daughter, a Chinese. My wife nodded yes, and the man disappeared.

A moment later he emerged with a small bottle of champagne obviously pinched from business class. He pressed the bottle into my wife's hands. “You have done a good thing,” he told Julie. Then he melted away into the crush of passengers trying to disembark.

In the year and a half since we brought Grace Wenying McGurn home from China, we have been touched by many angels, friends and strangers alike, most of whom will never know the potency of their individual acts of kindness.

In particular the airline steward will never know, because I suspect that to try to track him down would have him fired. In truth such kindnesses as his are misplaced, because all adoption has done in our case is to take a man, woman and child and transform them into a very ordinary dad, mom and daughter. There is a beauty particular to adoption—the mystical joining of souls that in retrospect seems foreordained—but the beauty lies in the bewitching normalcy of it all. We feel the same sense of awe and wonder as other new moms and dads; we buy the same toys; and we bore all our friends with the same repertoire of stories.

In the newspaper world in which I live, the circumstances of Gracie's arrival makes for what we call good color, yet trying to confine Gracie to the boundaries of the printed word has proved utterly beyond my meager capabilities. There are, to begin with, the political complications of a Chinese adoption. For entirely legitimate reasons, many of my colleagues have wanted to use

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**William McGurn**, who writes the “Main Street” column for the *Wall Street Journal*, was chief speechwriter for George W. Bush from June 2006 to February 2008. This article first appeared in 1997 in *Notre Dame Magazine* and is reprinted with Mr. McGurn's permission.

our case to illustrate the realities and complexities of adopting from China.

From the start, however, Julie and I agreed that neither we nor Gracie would be the subject of any news stories, certainly not as ammunition in any of the acrimonious debates over adoption itself (involving single parent adoption, homosexual adoption, and so on), not even in such a supremely just cause as the fight against China's repellent one-child policy.

The reason is simple: Grace Wenying McGurn is not a cause. Gracie is our first child, and adoption happens only to be the means by which she joined our family.

Yet I did volunteer for this particular article for publication by *Notre Dame Magazine* for two specific reasons. First, my experience within a relatively small circle of University of Notre Dame acquaintances suggests that this is an audience more disposed to adoption than most. Gracie's story might perhaps help still the entirely natural anxieties of some would-be adoptive parents struggling with their own decision.

The second was the knowledge that in the security of the Notre Dame family, I could be sure that I might refer, without embarrassment, to the immanence of a loving God in this world and our lives. By this I mean the clear understanding we had each felt, well before we ever laid eyes on Gracie's shining face, that this as yet unknown little girl lying on her back in some orphanage in China was yet joined to us as a tiny but profound part of God's design.

Of course, the seeds of the decision were more prosaic: We wanted a family. Despite the absence of any medical reason why my wife and I cannot conceive a child, the fact is that we haven't, and at that point hadn't. Growing up, I had not really known anyone adopted (or at least known that they were adopted), and though we never had anything against adoption, neither did we know much about it. What we couldn't see then, but understand now, all came at once. Open your heart a crack to the possibility, and if it was meant to be God will do the rest.

Once we broached the possibility it loomed before us everywhere. In my office, the fellow next to me adopted a little boy. Articles on adoption now jumped out at me from the paper. We had been receiving a steady series of announcements from a former Notre Dame classmate of mine, Mary Clare Birmingham, who with her husband, Pat, now has five adopted children. With each announcement, the last heralding the arrival of two beautiful sisters from Russia, adoption began to take on real faces. Why not us?

As it turned out, the precipitating event was the 1995 broadcast of a British documentary on Chinese orphanages. Called *The Dying Rooms*, it shows orphanages full of infant girls, where a crude Darwinianism dictates that the less hardy—or the less delightful—will be left to die of neglect. I attended a

screening at the Foreign Correspondents Club here in Hong Kong. My wife refused to see it. Her response was more to the heart. “We can’t change things in China,” she whispered to me that night. “But maybe we could change things for one little girl.”

So there we were. Unlike some adoptive parents in the United States, we did not decide to go overseas for an adoption: We went to China because we are overseas. Race was never a factor, and the families on both sides opened their hearts when we told them. We had only two negative comments, one from a Hong Kong Chinese who thought Chinese should be adopted by Chinese, and one from a Notre Dame friend. But both were off-the-cuff reactions, and each has been marvelous to Gracie since.

Chinese adoptions may be more difficult than most, if only because adoptive parents are torn between speaking out on the abuses (which may jeopardize the chances of other parents) and keeping silent. We faced constant delays and setbacks. Unlike a pregnancy there is no natural terminus for an adoption. Our only tangible link would not come until many months later, when we received a crude 1-by-1½ inch Polaroid photo. For biological parents, who every day have some sacramental reminders of the miracle of life—even if it is just morning sickness—it may be hard to imagine the intensity of feeling that accompanies a photograph. Or how many times, from how many angles, we would look it over.

The accompanying form informed us that Grace was from Yangzhou in China, a town on the Grand Canal where Marco Polo was said to have served as governor and where the sitting president, Jiang Zemin, was born. Four months later, after more delays, we were finally allowed to come get her. There was little ceremony. The morning after we arrived in Yangzhou, orphanage workers brought Gracie in, plopped her down on our bed, collected their money—and left, with Gracie sleeping through the whole process. That’s how I became a father.

At first Grace was horribly bloated and pasty faced from the bad diet. Mostly she had been drinking powdered milk and seemed to have been fattened up for the big day. While the last bits of paperwork were being completed, we got to know our daughter. First we put on the new clothing we had brought and changed the powdered milk for formula, with immediate implications for her bowels. Then we took her outside, up along the old canal. The old ladies of Yangzhou would come up and coo and offer advice. *Piaoliang di nu er!* (Pretty girl!) *Hao yunqi di xiao wa, dao meiguo qu!* (Lucky baby, go to America!)

I am sure Gracie in that one day had more physical interaction than she had had in her whole tiny life. In the orphanage, which we later visited, the

children lay on their backs, three to a crib, craving human warmth and attention. That first night, when we put Gracie to bed in a makeshift cot, she lifted up her head and cried like a wounded animal. She was checking to see if we were still there.

In the more than a year since then, Gracie has grown strong and happy. When I watch her play or hear her call “Daddy,” I shudder at how easily we might have missed the most wondrous thing in our lives, how tenuous the connections of chance that brought us together and yet how inevitable they look from the perspective of today. It is one reason we have always believed that in some unknown way God meant for all of us to be together, and he, not us, chose Grace.

**I** am sure this sounds like happy talk, but let me tell you my friends, happy talk will not get you through an adoption. Like any biological parents, we hoped—and prayed—for a happy, healthy baby. Our social workers reassured us frequently that if we didn’t like the look of the child with whom we were matched, if we had any doubts about the medical report, if we simply couldn’t take her, we could ask for a rematch. But how could we second-guess God? From the start we decided we would take whatever child he sent us.

Accept that and everything else falls into place. In China, the authorities told us they knew nothing of Gracie’s background. That might be a blessing, for it does free us from the nightmare that someone might emerge to take her from us. Yet for Gracie’s biological mother, we have nothing but love. In a country that encourages abortion, even forces it, this woman chose to give our daughter life, a fact that compels a gratitude beyond this world’s ability to pay.

And though the process itself has more in common with applying for a mortgage than the joy of finding a child, the irritations I thought so sharp at the time have long since receded from memory. But our way was cleared by many helping hands, from the candles lit at the Grotto at Notre Dame by friends on campus to the prayers of our families and friends.

Does any of this really help? You bet it does. I have mentioned the exceptional Mary Clare and her husband, Pat. My father also told me of a friend of his, a second lieutenant in the Korean war who on impulse during an evacuation peeked into an abandoned church, where he found a desperate nun and an abandoned child: Then and there he decided to adopt the child.

I recalled a conversation with a friend in New York who had once off-handedly told me she was adopted and how much she loved her parents; another with an impressive student at the U.S. Catholic Conference in Washington, who said the fact of his adoption made him feel especially strong

about the evil of abortion. Fragmented bits and pieces of memory that I had thought lost in the different recesses of memory took on the glorious mosaic of God's purpose.

This is not to say that all is peace and light in the McGurn household. Our lives are far from perfect, and as much as we adore our little bundle of joy—and the sister we hope soon will join us—we have the same problems and disruptions other families have. But all that is dwarfed by the same joys that bind all families. Like every other adoptive parent I have met, the daily experience of these joys leaves Julie and me feeling guilty when people tell us how wonderful we are and how lucky Gracie is, because we know all too well that it is we who are the lucky ones.

We feel the same way about Gracie's sister-to-be, who also will be from China. As is their way, Chinese officials have informed us that any second adoption will have to be a special-needs child. If this in fact turns out to be the case, it is just God's way of telling us that this particular girl needs us—and we her—in some special way.

This may not be the path for everyone. Other people ought not to be condemned for what they cannot do. But the trust of which we speak is not an act of heroism. It is an act of surrender, the kind of surrender that makes the decision easier rather than harder. It sounds unbelievable, but I know it to be true firsthand. Leave the decision to God and you relieve yourself of the anxiety that comes from thinking that the choice is yours—the sneaking suspicion that you might have done better had you been a little more careful, a little luckier, a little more thorough.

In preparing for the possibility that this might mean a handicapped child, I have looked around at the moms and dads who have accepted similar decisions with good faith and found an absence of martyrs. Now I no longer pray that we be delivered of the perfect child. Instead I ask only that I am man enough to be father to the girl whom God in his wisdom, mysteriously and against all evidence, believes needs me in this most special way.

With Gracie, the social workers had from the start counseled that the child we would adopt might not even have been born, but I had always sensed otherwise. Three weeks after we brought her home, I looked back through the paperwork and dug out the Form I-600 we had filed with the Immigration and Naturalization Service. It is a document the Chinese officials never saw. It was dated July 12, and we filled it out at the consulate the day after we decided to go ahead with the adoption. Gracie's birthday is July 11—which means she entered this world at more or less the precise moment we decided to adopt. The Lord may indeed work in mysterious ways. But not always.

## Postscript: And Now There Are Three

Some fathers-to-be stand in hospital waiting rooms, cigars at the ready. For me, fatherhood has come in foreign hotel rooms, with a television set in the background blaring out long-defunct U.S. sitcoms recycled with Chinese dubbing. In the 14 years since Grace Wenying was placed in our arms, we have repeated the process twice more—with two other daughters, Maisie and Lucy, coming to us in two other hotel rooms in two other parts of China.

Maisie, our second, was indeed a special needs child: She was cross-eyed in both eyes. But when we got her we couldn't really see that; all we saw was that she was beautiful. A few months after we got back, this little child had eye surgery to correct the problem—and it succeeded. So a very happy ending, or should I say new beginning.

For the most part, we don't think much about adoption in our daily lives. On occasion, however, it comes up. When I started work at the White House in 2005, an Associated Press writer who was writing a profile about President Bush's new chief speechwriter came to my office. I mentioned how thrilling I found it simply to walk with my girls through the West Wing.

Here's how she quoted me: "My little girl, a year ago, was on her back in some crummy Chinese orphanage. A couple of days ago she was walking on the White House lawn. It's amazing." On the internet I saw that Xinhua—the Chinese government's official news agency—had picked up the AP story. I asked a good friend in Hong Kong how Xinhua had translated "crummy orphanage." He told me, "top-class social welfare organization."

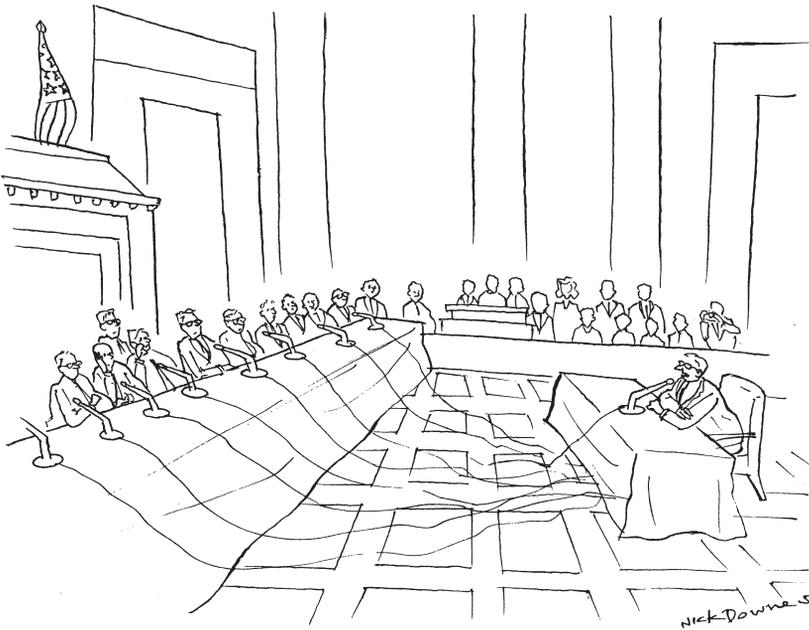
During my three-plus years in Washington, my daughters would all come to know the White House, the President, and the First Lady. Grace was my date for the Christmas Congressional Ball. Maisie had her first dance—with her daddy, I'm proud to say—in the East Room where Lincoln's two once rode carts pulled by goats. Lucy climbed onto the lap of George W. Bush during a White House ceremony for National Adoption Day, and has since applied for (and received) honorary Texas citizenship. That's not to mention the picnics, fireworks, Easter Egg rolls, Presidential M&M's and so forth that gave my children the distorted impression that the White House was a place of fun rather than work. In a highly personal way, they were given a special introduction to the long, welcoming arms of America.

Now we are back home in New Jersey, and my two oldest daughters are no longer little girls but young women. Though I know they love me, plainly I have reached the age—or they have reached the age—where they would just as soon I limit interactions with their friends. Indeed, my oldest has not

quite forgiven me for the entry her classmates put in her yearbook for her favorite activity: “likes to rap with her dad.”

At times I alarm myself with the thought that Grace is now much closer in age to the stunning 22-year-old who walked down the aisle with me in Maryland than she is to the tiny infant who was dropped in our arms in China almost two years to the day later. In those frightening moments, comfort comes from the same truth that illuminated those Chinese hotel rooms so many years ago: Our children are not really ours at all. They are a gift from God.

Even had we conceived them, we would not have created them. Even had my beloved borne them of her own womb, she—and I—could not love them more. Most of all, even had the plans we made as bride and groom come to fulfillment in all their entirety, in the beautiful Chinese faces of our daughters we are each day reminded that no plan of our own, no matter how loving and generous, could ever have matched the one so unmistakably written for us by the Author of all Life.



*“Ask me about my grandchildren!”*

# The Most Potent Political Cocktail

*Kathryn Jean Lopez*

**B**lessed is he who followed the health-care debate this year regarding abortion and did not get whiplash.

There were lies, damned lies, and backfired lies. And we haven't even gotten to the continued misrepresentations in the histories to come.

Barack Obama was elected president despite his radicalism on abortion. He misrepresented his record and demonized those who called him on it. His obfuscation strategy worked to confuse and complicate, and it worked—with the help of a team and coalition of enablers. This strategy repeated itself during the first year and a half of his term, as he insisted his health-care will would be done. The result is good and bad news for the pro-life movement, good and bad news for Catholics in America, and mostly bad news about life in the Democratic party. Whether or not it was a definitive turning point in abortion politics in America is a debatable question; it depends, in part, on what lessons are taken from it.

The Democratic strategy to get the Patient Protection and Affordable Care Act, otherwise considered the Edward M. Kennedy Memorial Bill, passed involved deception on many fronts. The longer it took, the more questions were raised about it, the more polls demonstrated a mood of hesitation and anger about it. (The health-care legislation was in large part the fuel for the tea-party movement, and polls have consistently shown that while abortion may not be the tea party's driving issue, it is part of the picture. You'll see pro-life signs at many a tea rally; they were visible on Capitol Hill at the time of the bill's passage in March. The longer it took, the more insistent were the lies from the Obama administration—notably involving the trotting out of self-identified pro-life Catholics to declare that the bill had absolutely *nothing* to do with abortion.

The U.S. Conference of Catholic Bishops clearly and consistently warned that they would have to oppose a bill that did not prohibit taxpayer funding of abortion. Despite all the claims to the contrary by the administration and the Democratic congressional leadership, the bishops ultimately determined that the bill did *not* prohibit abortion funding, and thus opposed it. They were called liars for saying as much. Once the legislation started to be implemented this summer, though, it became undeniably obvious that funds were, indeed, permitted to be used for abortions.

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**Kathryn Jean Lopez** is a syndicated columnist and editor-at-large for National Review Online.

## An Unceremonial Unraveling

This all finally became clear this summer, when the lie unraveled once and for all—all credit to Douglas Johnson and his team at the National Right to Life Committee. State by state, they looked through state guidelines as they were being issued about how the money coming from ObamaCare’s new Pre-existing Condition Insurance Plan (PCIP) could and would be used. They looked through five states’ guidelines in July and found that federal money was poised to be used for abortion in Pennsylvania, Maryland, and New Mexico.

At first, the reaction was muted or outright dismissed. But as the National Right to Life Committee, a humble blog post or two on National Review Online, and House Republican leader John Boehner made noise about this transparent lie, the Department of Health and Human Services was finally forced to issue a release assuring that they would, in fact, issue guidelines forbidding abortion coverage in the ObamaCare federally funded PCIP state programs; their heretofore successful lie was officially up.

And then the abortion industry went wild. They knew that ObamaCare had never prohibited abortion funding. But now, in one of its programs, it really *would* do so. The Obama administration had succumbed to political pressure. As Johnson put it:

Without blinking, the Obama Administration had approved high-risk pool plans submitted by at least three states that would have funded virtually all abortions—until NRLC raised the alarms. . . . In the regulation issued . . . the Administration tells states that elective abortions may not be covered in the high-risk pool program—but simultaneously, the head of the White House Office of Health Reform, Nancy-Ann DeParle, issued a statement on the White House blog explaining that this decision “is not a precedent for other programs or policies given the unique, temporary nature of the program.” This entire episode demonstrates what National Right to Life said in March—there is no language in the new health care law, and no language in Obama’s politically contrived March 24 executive order, that effectively prevents federal subsidies for abortion on demand. This means that unless Congress repeals the health care law or performs major corrective surgery on it, there will be years of battles, as each new program is implemented, over how elective abortion will be covered—and the White House is suggesting that today’s policy will not necessarily be applied when implementing the other programs, some of which will cover far larger populations. Lawmakers who voted for the gravely flawed bill must be held accountable, because we warned them that it left numerous doors open for federal subsidies for abortion.

Prior to this point, the Obama administration and other Democrats had been hawking the myths that a) there is some kind of global Hyde Amendment that forbids all federally funded abortions and b) the executive order solves all problems. But if a) and b) were true, how were any state plans approved that were covering abortions?

Or, as Helen Alvaré, a trailblazer in the pro-life movement for decades and former spokeswoman for the Catholic bishops, put it in an exhaustive study and debate with commentators from the liberal religious magazine *Commonweal*: “All that pro-life groups said—and all that I affirm after looking at the legal back-and-forth—is that between the plain language of the new health care law, its accompanying executive order, the legal precedents relevant to each, Congress’ rejection of proposed fixes, and the political processes leading to the enactment of the PPACA, pro-life citizens and legal experts were right to express grave concern over the final passage of this bill. They had more than reasonable cause to believe that it would move the United States toward a greater acceptance of abortion and the violation of moral conscience.”

And, in truth, the bill’s proponents wanted to go even further than that.

### **Radicalism**

Chief among the critics of the Obama administration the moment it was forced into its first actual regulation prohibiting use of ObamaCare money to fund abortions was Cecile Richards, president of the Planned Parenthood Federation of America. “This decision has no basis in the law and flies in the face of the intent of the high-risk pools that were meant to meet the medical needs of some of the most vulnerable women in this country,” she said.

As it happens, at many points during the debate, Richards was honest. She believes that abortion is a women’s health-care right, plain and simple. Like many a radical feminist, she believes that easy access to abortion is a fundamental reproductive right, and therefore a fundamental right. And she also hates the Hyde Amendment. During a December rally on Capitol Hill I attended she said exactly that: “Reproductive rights are human rights.” And she was tame, let me tell you, compared to others at that and other similar rallies. Abortion is, in fact, a “God-given right,” according to the Rev. Carlton Veazey, a Baptist minister and the president and CEO of the Religious Coalition for Reproductive Choice, who openly prayed that Planned Parenthood & co. be politically successful, insisting that: “You not only have a constitutional right for abortion, but you have a God-given right.”

Using God as their cover, in fact, they blasted the Catholic bishops for their principled stand against any public funding of abortion in the plan. “We are also here to call out the U.S. Conference of [Catholic] Bishops, because no one religion, no theological perspective should get the kind of weight that they can [to] put pressure on the Congress,” Dr. Veazey told those gathered in a Senate office building. “We in the religious community resent,” he said, the fact that the bishops can “hold the whole Congress up

and say, ‘If we don’t get our way, we will work against health reform.’” Dr. Veazey insisted: “We believe that no religion should carry that kind of weight in legislation.”

Fondly recalling that 1973 landmark *Roe v. Wade* ruling, New York Democrat Rep. Jerry Nadler told the abortion rally: “If anyone had told me then that we would have been fighting the same fight I would have been very depressed.” He explained: “The only fight that has been going on longer [than the abortion fight] is the fight for health care for all.” He insisted to those gathered that Democrats “cannot compromise one for the other because they are two sides of the same coin.” He and others had no tolerance for any substantive across-the-board prohibition on abortion funding in the bill and would have stormed the Capitol to end existing prohibitions right then and there if they thought they had the votes.

California senator Barbara Boxer and other heroes to this crowd bemoaned the women’s-rights surrender (in their worldview) that is the Hyde Amendment’s continuing, limited prohibition on abortion funding. They were determined to ensure that it was not extended to this health-care bill.

When Richards says that a summer’s-day HHS regulation has no basis in the health-care law, she has a point. Because, in fact, there *is* no universal prohibition on domestic abortion funding with federal taxpayer dollars. She knows that. Congressman Nadler knows that. Despite repeated claims by Nancy Pelosi, Robert Gibbs, and others, the Hyde Amendment—passed in 1976 and subject to an annual fight—has only ever applied to money appropriated annually through the HHS appropriations bill. And the Cecile Richardses of the world knew that. And not only did they know that, they would have eliminated it while they were guaranteeing that abortion would be funded by the health-care-bill, if they could have. Shortly after the House vote in March, she explained that the reason Planned Parenthood didn’t work to overturn the Hyde Amendment simultaneously was that “we have an anti-choice House of Representatives.” She wrote: “If you’re scoring, when the House voted for the first time on the Stupak abortion ban, 64 Democrats voted in favor of the ban. There are way too many members of Congress who are opposed to women’s rights and who vote that way every session—Republicans and Democrats.”

### **The Catholic Chaos**

At the eleventh hour, Cecile Richards got some help in her effort to ensure that her abortion views got into the bill—from, of all people, Catholic religious sisters. They appeared on CNN and any other outlet that would have them. The Catholic Speaker of the House would go on to say: “Thank God

for the nuns. Thank God for the nuns.” The sisters, led by the head of the Catholic Health Association, a trade association, played no small role in getting the bill passed; they added to the fog that surrounded the debate, and exposed how deeply entangled some congregations are in Democratic politics—even to the extent of buying into a culture-of-death deception on innocent human life.

The Catholic bishops, on the other hand, were notable for their principled independence from partisan politics and the deception being peddled, even as they openly embraced a goal of universal health care.

After the bill’s passage, Cardinal Francis George, archbishop of Chicago and president of the bishops conference wrote:

For whatever good this law achieves or intends, we as Catholic bishops have opposed its passage because there is compelling evidence that it would expand the role of the federal government in funding and facilitating abortion and plans that cover abortion. The statute appropriates billions of dollars in new funding without explicitly prohibiting the use of these funds for abortion, and it provides federal subsidies for health plans covering elective abortions. Its failure to preserve the legal status quo that has regulated the government’s relation to abortion, as did the original bill adopted by the House of Representatives last November, could undermine what has been the law of our land for decades and threatens the consensus of the majority of Americans: that federal funds not be used for abortions or plans that cover abortions. Stranger still, the statute forces all those who choose federally subsidized plans that cover abortion to pay for other peoples’ abortions with their own funds. If this new law is intended to prevent people from being complicit in the abortions of others, it is at war with itself.

Cardinal George’s comments echoed a chorus of religious women who got very little media coverage because their message, like the bishops’, did not agree with the largely universal goal among elites to get this bill passed at all costs to truth and even short-term electoral politics. In a March 18 statement, the Council of Major Superiors of Women Religious—which represents over 100 thriving religious congregations that live in community and wear the traditional habit—said: “Protection of life and freedom of conscience are central to morally responsible judgment. We join the bishops in seeking ethically sound legislation.”

### **The Tragedy of the Pro-life Democrat**

Throughout the whole ordeal—both while Michigan Democrat Bart Stupak was fighting for a Hyde-like provision to protect life and conscience, and after he ultimately caved to the administration and his party—I couldn’t get the late Pennsylvania governor Robert Casey out of my mind. He was Catholic, he was pro-life, and he was a Democrat. And he therefore didn’t actually

have a home in the Democratic party. If you're pro-life and you're a Democrat, for decades now, you've found yourself empty-handed, duped, angry, or humiliated.

In 1992, Casey won reelection with over a million votes. That and being the governor of Pennsylvania, a key swing state right next door to New York, would normally get you a slot at a Madison Square Garden Democratic convention. But not for Casey. In a move reminiscent of Bill Clinton's refusal even to talk to his own ambassador to the Vatican, who stood outside the president's office for hours trying to deliver a letter from the pope on the president's decision to veto a ban on partial-birth abortion, the White House refused even to respond to Casey's requests for a place on stage during the 1996 national convention. The Democratic party, which claims to be a beacon of tolerance, doesn't have a lot of it when it comes to those who defend the most innocent among us.

Instead, the Democratic party had six pro-choice Republican women speak to the assembled Democrats. But Casey, a confident man of moral conscience, knew what he believed. At the same school where President Obama spoke last year—the University of Notre Dame, which in bestowing an honorary degree on the president struck at the heart of its integrity as a Catholic school—Casey called his party out in 1995. “It was sold to America, this idea [of legal abortion], as a kind of social cure, a resolution,” he said. “Instead, it has left us wounded and divided. We were promised it would broaden the circle of freedom. Instead, it has narrowed the circle of humanity. We were told the whole matter was settled and would soon pass from our minds. Twenty years later, it tears at our souls. And so, it is for me the bitterest of ironies that abortion on demand found refuge, found a home—and it pains me to say this—found a home in the national Democratic party. My party, the party of the weak, the party of the powerless.”

Casey called abortion “inconsistent with our national character, with our national purpose, with all that we've done, and with everything we hope to be.”

Not much has changed in the decade since Casey died. “We're members without a party,” Stupak told the *New York Times*. “Democrats are mad at you, and Republicans don't trust you.” (The latter's instincts turned out to be valid.) When Stupak was a freshman in the House, he requested a seat on the Energy and Commerce Committee. He told the *Times* that “I had one or two members tell me I'd never get on because I'm right-to-life.”

What we saw in the health-care debate is that the Democratic party—as defined by its national leaders—is a party that, when given a choice between abortion and universal health care, will choose abortion. And many a supposedly pro-life Democrat will help them do it.

## **The Other Catholic Story in the House**

There were a number of largely unsung heroes who insisted on safeguards against public funding of abortion as part of the health-care plan. Dan Lipinski, Democrat of Illinois, who voted against the bill, is chief among them. But House Republican leader John Boehner of Ohio was the guy at the White House summit on health care who wouldn't let it drop. Nor would he do so, even after it passed: writing letters to the (Catholic) secretary of Health and Human Services, bringing it up in meetings with the White House, including with the president. He has been calling for legislation that would really make the Hyde Amendment universal and permanent (such a bill has been introduced in the House by Democrat Lipinski and Republican Chris Smith of New Jersey). We'll see how that goes.

Even though there has been very little media exposure of the existence of abortion funding in the health-care bill, House Republicans are running on the issue in the 2010 midterm elections. The polling company's Kellyanne Conway's findings for the pro-life Susan B. Anthony List have consistently shown that the voters did not take this issue of funding lightly. That's why so many of the supposedly pro-life Democrats who were desperate for an excuse to vote for the health-care bill hung on until the last minute, before settling for the president's faux compromise.

As Cathy Ruse, senior fellow for legal studies at the Family Research Center and former spokeswoman for the Catholic bishops on pro-life issues, reflects: "The government health-care debate was the perfect stage to test the theory from the Left and Center Left that abortion has no traction in public policy anymore. There can be no dispute that abortion was one of the main drivers in the debate."

She adds: "It also showed something about the Catholic Church—that the sex scandal did not rob the Church of her moral authority, as some in the Church on the political left had often declared—and surely hoped. In fact, so potent is the Catholic voice in public policy on this issue that the Left had to trot out a coalition of dying congregations and pit nuns against the bishops to win the day. Secular sources wouldn't have been enough to trump the bishops so they resorted to other churchy sources, all of which tends to show the potency of the Church!"

### **Life Goes On**

Charmaine Yoest, president of Americans United for Life, believes that this debate was truly "a milestone for abortion politics in America":

Like the partial-birth abortion debate in the 1990s, the battle over health care reminded the American people what is at stake in the debate over abortion-related

policy . . . and how committed the abortion lobby is to a completely unfettered right to abortion. And furthermore, abortion subsidized by the public purse. Americans are overwhelmingly opposed to taxpayer-funded abortion even if they support abortion rights more generally. But as the debate progressed, it became increasingly clear that allies of the abortion lobby in Congress intended to pass this radical legislation with complete disregard for the American public's opinion.

Yoest believes the hubris of the sausage-making that went into the bill might just be enough to tip the political balance: "This bill was the product of some of the worst backroom deals and political gymnastics that have been seen in our collective memory. What's worse, all of these efforts were undertaken to reverse decades of policy to the contrary. The public didn't want to pay for abortions, and Washington could care less." Instead, she said, the public was subjected to "ruthless political maneuvering" and deceit after being promised transparency and accountability.

"For decades," says John J. Pitney Jr., a politics professor at Claremont McKenna College, "abortion debates have not been models of candor. Pro-choice politicians have often been less than honest about such matters as 'health of the mother' loopholes and the number of partial-birth abortions. Pro-life politicians have often said one thing at Communion breakfasts and done something else in committee rooms." But it is possible that this debate over ObamaCare, as the lies unravel and court challenges and repeal efforts continue, will bring the American voter's patience with and tolerance of the deceptive culture of death and the Democratic party's bad romance with it to a breaking point. "The health bill takes things to a new level," Pitney agrees. "Debates on the Hyde Amendment have at least dealt with programs already in place. Debates about abortion and ObamaCare involve programs that have not yet gone into effect, rules that have not yet been written, and services that have not yet been delivered. Determining how the plan will actually work is like fact-checking the world of [the summer blockbuster] *Inception*."

### **Life of the Party**

So there may truly be good news in all of this. It's significant that the abortion issue was at the heart of the contentious health-care fight. Alvaré observes that the debate "was a milestone to see how much power pro-life forces wielded right to the very end. To see that after all these years, the issue still runs deep."

It's significant that abortion was being debated until the eleventh hour—and that the Catholic bishops, whose conference frequently (outside of abortion) operates as a liberal think tank, were steadfastly opposed to the bill, even as liberal religious sisters screeched their dissent. It was significant

that winning, for the Democratic party, required insisting that they were being pro-life.

Just as Barack Obama was elected president despite his radicalism on abortion—he lied about his record and a willing press establishment was complicit in the farce—the health-care legislation became law this year despite the fact that it was the most radical expansion of legal abortion in the United States since *Roe v. Wade*.

Jim Capretta, a fellow at the Ethics and Public Policy Center who once worked for the Catholic Health Association, says that “the health-care debate was definitely a turning point in the struggle to protect human life.”

“Going forward,” Capretta advises, “I think the first challenge is to expose the deceptions that were employed to pass the bill and hold the people who used them accountable for promoting, rather than restricting, abortion-on-demand. You can’t just paper over what was done and act like it never happened. The hard truth is that the Democratic party is built in large part on a base of support that is antithetical to the pro-life movement. There’s really no way to get around that or to work with that coalition on compromise abortion language. The only way to make progress is by making the extremist abortion views that are so prevalent among their liberal members of Congress a serious political liability.”

Patrick Lee, director of the Institute of Bioethics at the Franciscan University of Steubenville, frames the big picture with great clarity:

The debate about the health-care bill is, I believe, in *three* ways making the division between pro-lifers and “pro-choicers” much sharper. First, it is becoming clear that the fundamental question whether unborn human beings have rights and therefore deserve protection of the law, or are mere things and therefore can be ripped to shreds or dumped in garbage cans, cannot be evaded by facile slogans such as “I’m personally opposed, but . . .” Even if the present health-care law is repealed, the move toward public funding of more and more health care will continue. So, unless the rights of unborn human beings are recognized, all of us may be forced to cooperate on a new level with the killing.

It is as if in the early 19th century the government began massively to subsidize the slave trade to help provide all farmers and plantation owners with safe and affordable access to slave labor. It would have become clear to most people much sooner than it did that no one can really remain neutral in a debate about whether a whole class of human beings (African-Americans in the 19th century, like the unborn human beings today), can be relegated to the status of things to be used (or killed) for others’ benefit, or must be respected as bearers of rights.

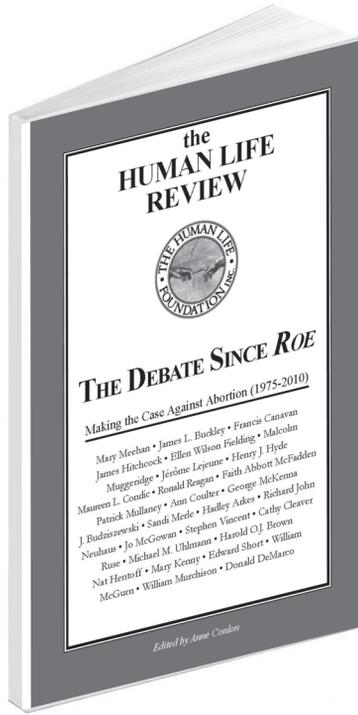
Second, this stark contrast is prompting proponents of abortion more frequently, and more vehemently, to label pro-lifers as hateful, harmful, bigots standing in the way of reform. . . . And third, these two developments seem also to spark a backlash—a greater willingness on the part of leaders (religious, social, and political) to speak out forthrightly on the priority of this issue to others.

The debate over ObamaCare is far from over. Its moral consequences have yet to be fully explored, realized, and dealt with by Democrats, by Catholics, by American voters. As the deception continues to unravel and the record becomes clearer, it's likely that more and more leaders of clarity and truth will rise up. We've already seen some of them in some of the congressional candidates who have emerged this year. Everything hinges on life—that was at the heart of the health-care debate. Either deception or truth can still win. It's up to every one of us to see that it's the latter.



Nick Downes

*“The Mitchell’s costume party—I suppose you’ll be going as a pirate, again?”*



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

**—J.P. McFadden**

This is a book for anyone who has sat around the kitchen table (or the dorm room) defending the sanctity of human life while wishing he or she had greater command of the facts and arguments. Culled from the *Human Life Review*'s unique 35-year-record of anti-abortion advocacy, *The Debate Since Roe* features essays by doctors and lawyers, politicians and political scientists, philosophers and clerics, journalists, and, to quote the *Review*'s late founding editor J.P. McFadden again, those who bring “a layman's view of the meaning of it all.” A perfect gift for students, pastors, family members and friends. To order a copy (\$14.95 includes shipping), please use the enclosed business reply envelope or call us at (212) 685-5210. Bulk pricing is available for orders of over 10 copies. You may also order copies at our website: [www.humanlifereview.com](http://www.humanlifereview.com).

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# Don't Mess with Mama Grizzlies

*Sarah Palin*

I'm especially glad to be here celebrating life and doing it under the banner of one of my heroes, Susan B. Anthony. It's an honor to speak in the building named after another one of my heroes, and many of yours: Ronald Reagan. This is an honor! [Applause.]

President Reagan, of course, was always so supportive of women leadership. In fact, he often liked to tell a story about his good friend, and another heroine, Margaret Thatcher. Reagan first met Thatcher before she became prime minister, and it was during a trip that he took to England while he was still governor of California. Reagan loved to tell a story about that trip. Apparently he was the guest at a reception hosted by members of the British Conservative Party. And, to use Reagan's own words, he said, "Lord Somebody-or-other came over to him and asked, 'Well, what do you think of our Mrs. Thatcher?'" And Reagan said, "I think she'd make a magnificent prime minister." And the British lord said, "Oh my dear fellow, a woman prime minister?" And Reagan replied, "Well, you had a queen named Victoria who did pretty well." [Laughter.]

And, of course, Reagan was right about what a magnificent prime minister Margaret Thatcher was. And I admire the fact that Mrs. Thatcher never set out to be a woman prime minister, just a prime minister, and one of the greatest ever to have served—perhaps because she was a woman of action. Thatcher liked to say, "In politics, you want something said? Ask a man. You want something done? Ask a woman." [Laughter.]

So, folks, in 2010, we'll remember this year because we're going to accomplish a lot together. This year will be remembered as the year when Commonsense Conservative women get things done for our country. [Applause.]

All across this country, women are standing up and speaking out for common-sense solutions. And many of them are grassroots activists, leading—like the Tea Party Movement, which I'm excited about because it's a beautiful movement. It's a movement of the people. These women are getting involved because they want a better future for their kids, for all of our kids. And these policies coming out of D.C. right now—this fundamental transformation of America that we were warned about in the campaign—well, a

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**Sarah Palin** is the former governor of Alaska and author of *Going Rogue: An American Life* (Harper Collins, 2009). This article, which appears here with Ms. Palin's permission, is the text of a speech she gave at a breakfast hosted by the Susan B. Anthony List in Washington D.C. on May 14, 2010.

lot of women who are very concerned about their kids' future are saying, "We don't like this fundamental transformation of America—this road that we're on towards national insolvency; being beholden to foreign countries in so many respects now; being under the thumb of big government with more of a disrespect for life, for the sanctity of life. We don't like that transformation." And, to me, it seems like it's kind of a "mom awakening" in the last year and a half, where women are rising up and saying, "No, we've had enough already. We're going to turn this thing around. We're going to get our country back on the right track, no matter what it takes. We're putting all of our efforts into these midterm elections to turn things around and put government back on our side, to respect the will of the people—not allowing government to make us work for it, but for our government to, again, work for us." [Applause.]

The policies coming out of D.C. are allowing us to feel empowered, really, allowing us to rise up together because moms kind of just know when something's wrong. It's that mother's intuition thing, I think. We can tell when things are off-base, off-course, or not right. And we're not afraid to roll up our sleeves and get to work and get the job done and set things straight. Moms can be counted on to fight for their children's future. Now, again, part of that fight has to do with the grassroots movement that is full of Tea Party Americans, those who are saying, "No, enough is enough." And what has amazed me about the Tea Party Movement is how the media has reacted to the people who are involved and just want their voice heard and say, "No, government, you're overreaching. You need to abide by our Constitution, and you have limited powers, Federal Government. And we're going to explain to you and remind you what the Constitution's all about." That's what the Tea Party Movement is all about.

So, there the media is, and they just kind of crack me up because they embed themselves in the Tea Party rallies, and they try to figure out just who are these creatures who are a part of this movement—these moms, these grandmas, these teens and college students, these doctors and lawyers and such from all walks of life, both genders, and of all races. And yet, the media has tried—but I think they've failed because Americans are smart enough to hold the media accountable—but the media has tried to portray Tea Party Americans as racist and violent and all those things that they are not, that we are not. We're just average, everyday, hard working, patriotic, liberty-loving Americans who, again, have said, "That's enough, Federal Government, that's enough of your overreach, and we're going to do something about it."

Now, it's been clever, too, being a part of these Tea Party rallies, seeing

some of the signs in the audience and some of your signs today, too. We can learn a whole lot about the sentiment of the American public just by reading the signs at some of these rallies. I think one of my favorites was a mom carrying a sign saying, "My kid is not your ATM." [Laughter.]

Because when Washington goes on a spending spree and starts borrowing money to take over and bail out insurance companies and financial institutions and banks and auto makers, and keeps spending endlessly and running up dangerously unsustainable debts and deficits and expects that our kids and our grandkids are going to pay the bills for our overspending today, I think it's immoral. It's unethical. It's not right, and I think that all of us agree on that. And when that happens, I think a whole lot of moms became concerned about government handing our kids the bill. It's generational theft. We're stealing opportunities from the future of America. That's when we rise up, and as moms we say, "Come on now. That's enough. We're going to do something about this." And Washington, let me tell you: you don't want to mess with moms who are rising up. There in Alaska, I always think of the mama grizzly bears that rise up on their hind legs when somebody's coming to attack their cubs, to do something adverse toward their cubs. No, the mama grizzlies, they rear up. And, you know, if you thought pit bulls were tough, you don't want to mess with the mama grizzlies, and I think there are a whole lot of those in this room.

And that's what we're seeing with all these women who are banding together, rising up, saying, "No, this isn't right for our kids and for our grandkids," and these women are leading the grassroots people's movement. Many of the Tea Party leaders are women. Some Commonsense Constitutional Conservative women are taking to the streets right now, organizing on the grassroots level. This is so good for our republic to have this rising up, this awakening. Candidates are boldly putting it all on the line running for office, and we so appreciate those who are endorsed and nurtured by the Susan B. Anthony List.

When I see how many great women candidates are running, it kind of reminds me of that campaign button that we had in 2008. It showed a pink GOP elephant on it, and it said, "It's a girl." [Laughter.] And maybe that was a single girl reference then, but this year, look out, Washington, because there's a whole stampede of pink elephants crossing the line! And the ETA, stampeding through, is November 2nd, 2010! [Applause.]

There are a lot of women coming together to take this country back. Organizations like the Susan B. Anthony List are leading the charge. You play such a crucial and unique role in the pro-family, pro-woman, pro-life movement, because you support pro-life women candidates. And that is a group

that must continue to grow in numbers. You sponsor candidates who will not vote present on the issues of life. You know that supporting the culture of life is not above anybody's pay grade. We proudly stand up, and we speak out for those most in need of our protection—those most vulnerable—and we're not shy about doing so. Being a pro-life politician is more than just a convenient title come election time. It means making tough decisions—even if that means bucking your party once in a while on these issues of life, even if it means standing up against the machine that's running a party.

The Susan B. Anthony List was front and center during the Obamacare debate, and we're all so grateful for your leadership on fighting the public funding of abortion during the Obamacare debate. We were saddened to see so many so-called pro-life Democrats cave on the issue. But we're not discouraged. Far from being discouraged, we need to be energized. We need to be really fired up. We're not going to be demoralized. We're going to get organized. Elections have consequences, and we've seen some of the manifestations of that already in the recent elections and in some of the recent polls. We've seen the consequences of those who said that they were something, get into office, cast their votes, and prove that they're something else. We won't forget those who promised to hold firm against government funding of abortion, but caved at the last minute in exchange for a non-binding executive order promised by the most pro-abortion president to ever occupy the White House. We will not forget. We won't forget, and come November, our new pro-life, pro-woman majority will actually be pro-life when it counts—when those votes are needed! [Applause.]

But your work is more than just candidates, SBA. You acted as a representative for all feminists who believe in the culture of life. Organizations like the Susan B. Anthony List are returning the women's movement back to its original roots, back to what it was all about in the beginning. You remind us that the earliest leaders of the women's-rights movements were pro-life—women like your namesake and like Elizabeth Cady Stanton, Sarah Norton, and Alice Paul, who, of course, was the author of the original Equal Rights Amendment back in 1923, who said that “abortion is the ultimate exploitation of women.” Today, polling shows that more young women agree with these feminist foremothers than ever before and believe that the culture of life empowers women by offering them a real choice. In fact, a Gallup Poll showed recently that for the first time in 14 years, there are more Americans proudly proclaiming themselves as pro-life, understanding the sanctity of life and the need for the culture of life, than ever before. The majority of Americans are now pro-life! And that's a huge victory! [Applause.]

Together, our pro-woman sisterhood is telling young women that they are

strong enough and smart enough to handle an unintended pregnancy and still be able—in less-than-ideal circumstances—to give their child life in addition to pursuing their career, education, and avocations. Society wants to tell these young women otherwise, and even some feminist groups try to tell them that they're not capable of doing both. They're sending young women the message that "You can't give your child life and still pursue career or education. You're not strong enough; you're not capable." That's very hypocritical to call yourself a pro-women's rights group and then claim such a thing. And that's as opposed to Susan B. Anthony List and other pro-life women's groups, who are saying, "Women, you are strong enough; you are capable of doing this. And if motherhood isn't an option, in terms of raising that child after you allow it life, well, then adoption is a beautiful choice." And we need to pursue more opportunity in that arena as well. [Applause.]

**S**o, even in less-than-ideal circumstances, these pro-life groups are empowering women, letting them understand that, yeah, there's going to be some help and some support and resources out there for you to help you give your child life. And I understand those challenges in less-than-ideal circumstances. I've been there. You know, I never planned on being the mom of a son with special needs. You know, I thought, "God will never give me something I can't handle." And when I found out at about 12 weeks along through an ultrasound that my baby would be born with Down's Syndrome, I thought immediately, "Okay, God, remember you promised us you will never give us anything that we can't handle. I don't think I can handle this." This wasn't part of my life's plan. I had no idea how I was going to handle the situation of raising a special needs child as a very busy governor, with four other kids and with a husband who was away quite often commercial fishing or working up on the North Slope oil fields. And I didn't know if my heart was ready for this challenge—if I was patient and nurturing enough. My sister Heather has a child with autism, and we've always said, "See, God knew what he was doing. He gave Heather the child with special needs because she is the more nurturing of us. She'd be able to handle this.

But when Trig was born I understood then that God does know what he's doing, and what seemed like it would be such a challenge has turned into our greatest blessing. And I believe that one of the whisperers in my ear after that ultrasound and during the weeks and months of the pregnancy was God saying, "Are you going to trust me? Are you going to walk the walk, or are you just going to talk the talk?" And he was preparing my heart, though I didn't know that preparation was even being done in our family and in my

heart. But the minute that Trig was born and they laid him in my arms, he just kind of melted right into my chest. And he looked up at me, and it was just like he was saying, “See, God knows what He’s doing, and this is going to be good. And, mom, He gave me to you and He gave you to me, and this is going to be a wonderful journey.” And truly, God has been so overwhelming us with joy and the recognition of Trig’s perfection. It has been nothing but a blessing. And I so want to help other women who are in a situation and thinking that these are less-than-ideal circumstances and wondering “What am I going to do about this? Maybe I can change the circumstances. Maybe this can all just go away and I can pretend it never happened.” I want to encourage these women, oh my goodness, give this life a chance. You will be blown away, overwhelmed; your life will so change for the better in allowing the life of someone even with special needs—especially someone with special needs. Todd and I know that—and our family, we know that Trig will teach us more than we’ll ever be able to teach him. He brings such awesome perspective on what really matters. At the end of the day, in this political arena with all of the things they say in the media and all of the political potshots—it doesn’t amount to a hill of beans. All that stuff on the periphery just wastes time and doesn’t matter, not when Trig is there in our life showing us his golden heart, which I believe God would want all of us to embrace and emulate. I tell you, truly, Trig has been the best thing that has ever happened to me and to the Palin family. [Cheers and applause.]

Let me share quickly something that Trig does that I think the rest of us can learn from. He, of course, will have challenges his entire life, probably greater challenges than the rest of us will have. But you can already see the kind of perspective in this child that I think the rest of us are supposed to understand and emulate too. He’s two years old now, and every morning he wakes up and pulls himself up to the top of his crib. He looks around and he rubs his sleepy little eyes, and even though the day’s going to be challenging, he starts applauding. [Laughter.] First thing in the morning, he looks around clapping like, “Woohoo! What are you going to do with me now?” And shouldn’t we all do that? Shouldn’t we all? That’s what we’re learning from our boy. [Applause.]

But my daughter Bristol also didn’t expect to become pregnant at 17, and those were less-than-ideal circumstances. Bristol had to endure some public humiliation. It was an embarrassing time for her. And bless her heart, we’re out on a national stage, and she and the rest of the family were saying, “You know, this wasn’t supposed to happen.” No, and you don’t think it will happen in your own family. But Bristol, being very strong and independent, chose life. She knew it wouldn’t be easy, and it hasn’t been. It was a premature

ending of her adolescence, and it was the beginning of a whole new life of absolutely living now for someone else. She's living for her son now. But society and the media sure hasn't made it easy on her, and I'm afraid they're kind of sending a message to other girls that, "Hey, it would probably be easier if you just abort your child and not have to go through what Bristol's going through." But Bristol has been firm in her message to other teenage girls which is, "Don't do what I did. This is not easy. Abstinence is the only 100 percent foolproof way, of course, of preventing pregnancy." [Applause.]

She's now kind of getting clobbered for that message, and obviously she's new to all this too, and she's asking me, "Why would I get clobbered for using myself as a lesson and warning other teenagers?" I think the phrase she uses is, "Pause before you play" which is—you know, that's good for them, too.

But Bristol knows that she made the right choice, and she sees that what seemed like life's greatest challenge, an impossible situation to get through, has now turned into such an awesome blessing with her baby. And we're here a year and a half later, looking at this child, saying, "What would our lives be like if he were not here?" Again, it wasn't an easy road for Bristol, but it was the right road. And I'm very proud of her decision.

**I**t's important to know that I am and always have been unapologetically pro-life. So when I talk about Trig, and when I talk to other groups about what went through my mind and the feelings that I had when the doctor was telling me about the possibility that my son had Down's syndrome, I have to be really careful in how I explain my feelings because some people say, "Oh, she considered abortion." Or, "How can that validate her pro-life position?" I say, "No, what Bristol and I both have been through has not changed my position, but it has changed my perspective on the whole situation."

Our experiences gave me tremendous empathy for the woman who does find herself in less-than-ideal circumstances. I now understand why a woman would be tempted, perhaps, to think that it might be easier to try to change the circumstances, to take the situation into my own hands and change it. I understand what goes through her mind—if even for just a brief moment, a split second even—because I've been there. But what my family has experienced in the last few years has really reaffirmed and strengthened my unwavering support for life at every stage. And choosing life may not be the easiest path, but it's always the right path. [Applause.]

And I've had that confirmation. The timing of the circumstances may not be perfect, but God sees a way where we cannot, and he doesn't make mistakes. So Bristol and I are both putting our faith in that belief, and we're

learning together again that what seem like life's greatest challenges at the moment turn out to be one of life's greatest blessings. And, though it took me time to get my arms around being the mom of the special-needs child, as I say, the moment that Trig was born was truly the happiest moment of my life, and things came together for me then; it was life-changing. And, truly, he teaches us more than we'll ever be able to teach him.

So I thank the SBA List for allowing women to receive that message about the sanctity of life, about giving life a chance. And as a pro-life, pro-woman organization, your voice and influence is growing as more Americans are looking to you. They're looking to see who it is that you endorse. They're looking to see what your message is because there's a craving, there's a yearning out there in our culture, for truth and for people who have a stiff spine and won't shy away from talking about the issues that some want to consider off-base, or too controversial. Some are more worried about being politically correct, and they don't want to engage in the conversation about the sanctity of life. But SBA List is bold enough and courageous enough to empower other women to have that stiff spine and talk about these issues.

And I thank the SBA List, too, for being a home to a new conservative feminist movement, which is how I look at this. It's an emerging conservative feminist identity. For far too long, when people heard the word *feminist*, they thought of the faculty lounge at some East Coast women's college, right? [Laughter.] And no offense to them, they have their opinions and their voice, and God bless them; they're just great. [Laughter.] But that's not the only voice of women in America. I'd like to remind people of another feminist tradition, kind of a Western feminism. It's influenced by the pioneering spirit of our foremothers, who went in wagon trains across the wilderness, and they settled in homesteads. And these were tough, independent pioneering mothers, whose work was as valuable as any man's on the frontier. And it's no surprise then that our Western states gave women the right to vote long before their East Coast sisters in more genteel cities got it. These frontier women had dirt under their fingernails, and they could shoot a gun, and push a plow, and raise a family all at the same time. These women—our frontier foremothers—they loved this country and they made sacrifices to carve out a living and a family life out of the wilderness. They went where no woman had gone before. I kind of feel a connection to that tough, gun-toting, pioneer feminism of women like Annie Oakley. [Applause.]

Maybe it's my upbringing in Alaska. Maybe, too, it's because later today I'm giving a speech for the NRA, and I'm kind of getting in the groove! Yeah. [Applause.] I'm proud to call myself a Western conservative in the tradition of Ronald Reagan. [Applause.] Understanding those Western values,

those small-town values, as an Alaskan woman, I'm proud to consider myself a frontier feminist like those early pioneering women of the West.

Now, maybe my jumping on the national stage was a little bit of a shock to some people. Some people may not have considered what an independent pioneering spirit, which I was brought up with, what that could look like. Actually, maybe there was *a lot* of shock out there when I jumped on the national stage. I know that some left-wing feminists didn't know what to make of an Alaskan chick out there talking about the Second Amendment and about raising a family with lots of kids (the more the merrier!). Some of them even refused to admit that I was even a woman! I mean, geeze! [Laughter.]

That's one of the reasons why I'm so grateful for the support of this organization and the hard work, the graciousness, even the diplomacy, that you use to engage in this debate. You address these issues so diplomatically, so professionally, with so much wisdom and intelligence, and, again, with grace. I'm grateful to have a place like this, full of sisters who are not put off by a gun-toting, pro-life mom of a fun, full family (never dull!). And I so appreciate the support that you all have shown.

So, our work—together with Susan B. Anthony—is to grow and expand this organization so that it, too, will be a foundation in our efforts to build a culture of life.

Really, it all comes down to life and how we're going to take a stand to protect innocent life and decide that nobody is beneath the protection of our laws. America—this most exceptional country—will be even more exceptional as we embrace the culture of life and make manifest our commitment to protecting and cherishing all innocent life.

This organization must also be a foundation for a new revival of that original feminism of Susan B. Anthony. Together, we're showing young women that being pro-life is in keeping with the best traditions of the women's movement. And this year, the Susan B. Anthony List and its great women candidates are going to prove Margaret Thatcher right. If you want something done, ask a woman.

We're getting the job done, sisters—one life, one activist, one election, one vote, one American Dream at a time. So, thank you. Keep up the good work. God bless you. God bless the United States of America.

[Applause.]

# Notes on the Scott Brown Election

James T. Grady

Lost in the hoopla over Scott Brown's Senate election victory in Massachusetts last January is the role EMILY's List played in the failed campaign of his rival, state attorney general Martha Coakley. EMILY's List—EMILY is an acronym for “Early Money Is Like Yeast”—is one of the nation's largest political action committees, and boasts on its website that it has helped to elect 80 pro-choice Democratic women to the U.S. House, 15 to the U.S. Senate, 9 to governorships, and hundreds more to state and local office. Indeed, they allege that their “Women Vote” program has been able to elect pro-choice Democrats up and down the ticket. Their mission statement is short and to the point: “EMILY's List is dedicated to building a *progressive* America by electing *pro-choice* Democratic women to office” (emphasis supplied).

## I

By the time of the primary vote on Dec. 8, 2009, Martha Coakley had already received \$524,913 through the efforts of EMILY's List—over one-tenth of her early contributions. The group had recommended Coakley to its more than 100,000 members nationwide, and they responded generously. At that time, she was the only senatorial candidate in the primary, including Scott Brown, to have received donations from all 50 states. It was later revealed that two-thirds of her contributors were women, despite the fact that political fundraising has long been dominated by men, according to a study conducted by the *Boston Globe* (Dec. 5, 2009). Further, it was disclosed that EMILY's List had targeted 39,000 households in Massachusetts with a series of four mailings. It is no wonder that Coakley was 5 percentage points ahead of Brown on primary day. Brown, the eventual January winner, had a late surge during the final two weeks of the campaign and ultimately was able to raise about \$15 million, to surpass Coakley's total of slightly more than \$14 million. EMILY's List lived up to its acronym concerning the enhanced value of early contributions to a political campaign, despite the fact that Scott Brown's late surge carried the day for him. But, as we shall see, her failure was, in part, due to precisely the characteristic that so endeared her to EMILY's List: her militancy on the abortion issue.

Throughout the campaign, including in debates and interviews, it became quite clear that the endorsement of Coakley was paying dividends for

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EMILY's List, if not for Coakley herself. They got their money's worth indeed. Coakley publicly and repeatedly stated her support for the right of women to procure an abortion, without regard to the duration of the pregnancy; early or late was all right with her, the woman's age was irrelevant, and her parents had no rights in this regard at all. It was strictly the woman's (girl's) choice and hers alone. Coakley derided her opponent several times for his having voted as a state senator for a bill that supported and upheld the right of medical personnel to refuse to participate in abortions and related practices. She further proclaimed that health-care professionals who have moral objections to dispensing emergency contraceptive pills "probably shouldn't be working in the emergency room."<sup>1</sup>

On the health-reform bill, Coakley said at first that she wouldn't, as a U.S. senator, vote for any bill that didn't provide for full federal funding for abortions under any and all circumstances. To quell the uproar that followed this declaration, she said that under certain, yet to be explained, circumstances, she would consider an exception to her no-vote stance. Scott Brown, on the other hand, was much less strident on abortion. While he stated that he was pro-choice, he also said that he was opposed to the health-reform bill then before the Senate, and would vote against it if it included federal funding for abortion. He further commented that abortion per se should be legal, but that the government has a responsibility to regulate it. He supports parental consent for minors (he has two grown daughters), parental notification, the ban on partial-birth abortions, and a strong conscience clause to protect health-care workers. Bea Martins, associate field director for the activist group Catholic Citizenship in the diocese of Fall River, Mass., said of Brown's abortion views: "Of the candidates, his values most closely aligned with the values of the faith."<sup>2</sup>

In a TV debate, the moderator asked Coakley and Brown about the public dispute between Rhode Island congressman Patrick Kennedy and Bishop Thomas Tobin of the Providence diocese.<sup>3</sup> The bishop had advised the congressman, in a private letter, that, in view of his vigorous and public support for abortion rights, it would be "inappropriate for you to be receiving Holy Communion" and that "I now ask respectfully that you refrain from doing so." (The private letter became public because the congressman himself gave it to the press.) Coakley's answer was that this matter was of no concern to her, despite the fact that—as she had proudly proclaimed in response to an earlier question—she had been raised Catholic. She went on to volunteer that she has never been criticized by "anyone" from the Church regarding her pro-choice stance on abortion rights. The inference that she sought to establish was 1) she was a Catholic and 2) her pro-choice stand was acceptable or at least a matter of indifference to the leaders (bishops) of the Catholic

Church. To my knowledge there was never any response, at least publicly, from the archdiocese of Boston.

She didn't even bother to assert the old canard of "personally opposed, but" so often invoked by self-proclaimed Catholic politicians such as Vice President Joseph Biden and Speaker Nancy Pelosi.<sup>4</sup> Apparently she didn't feel the need to play abortion "dodge ball" with the electorate. This, I suggest, turned out to be a major miscalculation by her and her campaign.

So what lessons can we learn from this? There are two political proverbs in play here: "Money is the mother's milk of politics" and "Follow the money." Coakley went out on a limb for her EMILY's List benefactors and responded aggressively with her ultra-strong pro-choice voice during the campaign. Thus, money does talk. Coakley received at least \$1 million from EMILY's List and its supporters, and their early money almost gave her the push she needed to win the final vote.

## II

The Massachusetts Citizens for Life (MCFL), who had strongly supported Scott Brown, were very upbeat about his victory. Anne Fox, president of the MCFL, said, "We have broken the back of the Obama health care [bill]." The MCFL's exuberance in victory was challenged by the response of more doctrinaire pro-lifers, some of whom blogged that the MCFL had made a serious strategic error in supporting Brown because of his support for *Roe v. Wade*.<sup>5</sup> Chief among the critics was Mark P. Shea, who commented as follows: "Incredibly, the election of a man who posed nude and supports torture and the damnable *Roe* is gushed over as a pro-life victory by multiple pro-life talking heads, while the buzz on Drudge and other 'conservative' sites on the day he is elected to the Senate is about the feasibility of packing the guy off to the White House. And all just in time for *Roe v. Wade* Day!"<sup>6</sup>

This split within the ranks of pro-lifers deserves a closer look, because it raises serious concerns about the future of the pro-life movement.

Prior to the election, the MCFL produced a chart [see adjacent page] that set forth the candidates' respective positions on abortion issues. The chart adds at the bottom the following information: "Martha Coakley has been advertising her pro-abortion position with paid ads on television. Scott Brown sponsored MCFL's Woman's Right To Know Act. Brown also sponsored and passed Cord Blood legislation to provide an alternative to Embryonic Stem Cell Research."

A line in the sand has been drawn between the MCFL and its critics as to the propriety of the MCFL's support for Brown. But, on traditional theological and philosophical principles, it appears that the MCFL made the right choice.

	<u>Martha Coakley (D)</u>	<u>Scott Brown (R)</u>
Tax Funding of Abortion	Favors	Opposes
Parental Consent for Minors	Opposes	Favors
Ban on Partial Birth Abortion	Opposes	Favors
Freedom of Choice Act (FOCA)	Favors	Opposes
Abortion Specifically Exempt from Health Care	Opposes	Favors
Adult Stem Cell Research	Opposes	Favors
Infant Born Alive Protection Act	Opposes	Favors

**A: The Magisterium**

The Catholic Church has, throughout its history, been a bulwark against the practice of abortion.<sup>7</sup> The Church’s Magisterium has been vigorous and consistent; the 1995 encyclical letter of John Paul II entitled *The Gospel of Life* or *Evangelium Vitae* is a precise recent reaffirmation of the value of human life and its inviolability.<sup>8</sup> The Pope discusses the case of a legislative vote that would be decisive for the passage of a more restrictive law aimed at limiting the number of authorized abortions, and explains the role of an elected official in this circumstance as follows:

In a case like the one just mentioned, when it is not possible to overturn or completely abrogate a pro-abortion law, an elected official, whose absolute personal opposition to procured abortion was well known, could licitly support proposals aimed at limiting the harm done by such a law and at lessening its negative consequences at the level of general opinion and public morality. This does not in fact represent an illicit cooperation with an unjust law, but rather a legitimate and proper attempt to limit its evil aspects.<sup>9</sup>

Obviously, this language does not exactly fit the dispute under discussion because, as previously noted, Senator Brown is pro-choice. However, the language does clearly state that a pro-life legislator could properly support a narrowly limited pro-abortion law in preference to a more liberal or expansive law in support of abortion, in an effort to limit its evil aspects.

Later, in a passage in which the Pope appeals to political leaders not to pass laws in favor of abortion, he notes that there are strong cultural currents holding differing views than those of the Catholic Church. The Pope in this situation urges an approach that considers what results are reasonably

attainable: “At the same time, certain that moral truth cannot fail to make its presence deeply felt in every conscience, the Church encourages political leaders, starting with those who are Christians, not to give in, but to make those choices which, taking into account what is realistically attainable, will lead to the re-establishment of a just order in the defense and promotion of the value of life.”<sup>10</sup> Thus, the Pope, once again, in certain limited circumstances, suggests that choices that aren’t always the most desirable may be made for the greater good of your eventual goal.

Whether this papal language lends support to the MCFL position will no doubt be a debatable matter. However, the terms “limiting the harm done” and “realistically attainable” do appear to support its endorsement of Scott Brown.

#### **B: The Lesser of Two Evils Principle<sup>11</sup>**

This principle presents the concept that of two bad choices (evils), if one isn’t as bad as the other, it should be chosen, or preferred over the other that is the greater threat or evil.<sup>12</sup> In the context of our issue, it appears that there are two choices.

Choice One: the election of Scott Brown, who supports *Roe v. Wade*, but also supports restrictions on abortion (such as requiring parental consent, forbidding partial-birth abortions, protecting born-alive infants, ruling out federal funding, and mandating conscience clauses).

Choice Two: the election of Martha Coakley, who supports *Roe v. Wade* and is *opposed* to any government controls (including all five just mentioned above).

Clearly, the weight of the pluses is in favor of Scott Brown. His support for *Roe v. Wade* weighs heavily against him, but when contrasted with the strident abortion stalwart Martha Coakley, Brown is the clear winner, or the “lesser of two evils.”

#### **C: Consequentialism**

The word “consequentialism” refers to all moral theories, including utilitarianism, that hold that the consequences of a particular action form the basis for any valid moral judgment about that action. Thus, from a consequentialist standpoint, a morally right action is one that produces a good outcome or consequence. This view may also be expressed as the aphorism “The end justifies the means.”<sup>13</sup> A related and relevant theory is “deontology,” which determines the rightness or wrongness of an act from the character of the act itself, rather than from the outcomes of the action.<sup>14</sup> For example, a consequentialist may argue that lying is wrong because of the

negative consequences produced by lying, while a deontologist might argue that lying is always wrong, regardless of any potential “good” that might come from lying.

A surprising number of the critics of MCFL use, in their blogs, these theories—or at least their interpretations of them—in support of their condemnation of the MCFL. Their argument, simply stated, is that because Scott Brown is supportive of *Roe v. Wade*, his election and therefore the support for his candidacy by MCFL are wrong, regardless of the consequences, i.e., the election of Martha Coakley.<sup>15</sup> While many of the bloggers used the term “consequentialism” in their critique of MCFL, it appears that there is no unanimity among them as to its meaning and application. What does come across loud and clear is the view that Scott Brown, because of his pro-life position, should be opposed, under any and all circumstances, including the gravity of the views of his opponent, Martha Coakley. In other words, the MCFL should have just sat out the election and have played no role in the campaign at all.

While this view may be a conservative and easy position to assume, it strikes this writer as both impractical and shortsighted. For the MCFL to sit on its hands while one of the most outrageous pro-choice candidates in recent Massachusetts history is elected to the U.S. Senate fails the common-sense test. Battles are never won by turning your back and running from the fight.

Advantage to MCFL.

## NOTES

1. “Many of States’ Pro-Lifers Upbeat after Brown Victory,” by Christine Williams, Feb. 22, 2010, at Anchornews.org at p.1.
2. Ibid. #1
3. Bishop Thomas J. Tobin was honored Jan. 24, 2010, by the Massachusetts Citizens for Life at their annual Assembly for Life, held in Boston, for his public dialogue with Congressman Kennedy.
4. This “cover” view for Catholic politicians had its genesis at a private meeting held at the Kennedy family compound in Hyannisport, Mass., in July 1964. Fr. Robert Drinan, S.J., and several other priests and Catholic moral theologians met to discuss the abortion dilemma faced by the Kennedys and other Catholic politicians. Fr. Drinan was later elected to Congress, where he served from 1971 to 1981 and compiled an almost perfect pro-abortion voting record. See Albert R. Jansen, *The Birth of Bioethics* (Oxford, 1998), pp. 290-292. The “personally opposed but” stance received its classical formulation in a 1984 graduation speech at Notre Dame by then-governor Mario Cuomo of New York.
5. *Roe v. Wade*, 410 U.S.113 (1973).
6. “Another Pyrrhic Victory for the Pro-Life Movement,” by Mark P. Shea, Jan. 26, 2010, at insidecatholic.com at p. 3.
7. For a complete history of the Catholic Church on the issue of abortion, see *The Morality of Abortion: Legal and Historical Perspectives*, edited by John T. Noonan Jr. (Harvard, 1970), at pp. 7 et seq.
8. *Evangelium Vitae*, Sec. 5.

9. Ibid., Sec. 73.
10. Ibid., Sec. 89.
11. See *An Introduction of the Principles of Morals and Legislation*, by Jeremy Bentham (Hafner Publishing Co., 1948) at p. 2.
12. A similar but significantly more complex principle is the Principle of Double Effect, also known as Indirect Voluntary. This doctrine, first formulated by St. Thomas Aquinas, proposes that any action that necessarily causes two inextricably linked effects, one good and the other evil, is morally justifiable only if (among several other conditions) the good effected is intended, while the evil effect is permitted or tolerated. See Daniel Callahan, *Abortion: Law, Choice, and Morality* (MacMillan, 1970), at p. 422.
13. See *Embryo: A Defense of Human Life*, by Robert P. George and Christopher Tollefsen (Doubleday, 2000), pp. 91 et seq.
14. See *Groundwork of the Metaphysics of Morals*, by Immanuel Kant, translated by Mary Gregor (Cambridge University Press, 1998), pp. 31 et seq.
15. For an in-depth discussion of this position see Baruch Brody, *Abortion and the Sanctity of Human Life* (MIT, 1975), Sec 1.3, pp.18 et seq.



# Thinking About Tea Parties

George McKenna

**T**he Tea Party movement, a loosely connected association of activists demanding smaller government, free markets, lower taxes, and other goals of fiscal conservatism, is feeling its oats right now, bringing together many ordinary Americans who hadn't paid much attention to politics before. As a pro-lifer I'm ambivalent about the movement. I am heartened by the fact that it has brought so many Americans into serious conversation on serious issues, and I'm hopeful Tea Partiers and pro-lifers may be able to converge on a common goal. On the other hand—once again as a pro-lifer—I am perplexed. Let's start with the perplexities. I beg the reader's patience as I work myself up to the main point.

The Tea Party movement was christened on February 19, 2009, on a CNBC program called *Squawk Box*, broadcast from the floor of the Chicago Mercantile Exchange. It was still early in the morning; not many traders were on the floor. Rick Santelli, the on-air editor, started loudly complaining about President Obama's "Homeowner Affordability and Stability Plan," the latest of several bailouts launched by the Obama administration. His voice booming through a nearly empty chamber, Santelli claimed that Obama was rewarding bad behavior—in this case by encouraging people to buy homes they couldn't afford. "If you read our Founding Fathers," he said, "people like Benjamin Franklin and Jefferson, what we're doing in this country now is making them roll over in their graves." He said he wanted to start a "Chicago Tea Party," which, like the one in Boston in 1773, would protest taxation without representation. Addressing the president and the new administration, he said, "Why don't you put up a website to have people vote on the Internet as a referendum, to see if we want to subsidize the losers' mortgages . . . ." He invited all "the capitalists out there" to show up at Lake Michigan. "I'm gonna start organizing." Broadcast on YouTube, Santelli's outburst immediately went viral; within a year and a half it had been viewed more than 1.2 million times.

At about the same time, TV and radio commentator Glenn Beck began asking his viewers and listeners to send in their pictures for display on his program and website. He wanted to assure each of them that "you are not alone." The political elites in Washington think they represent America, he said, but "*we surround them.*" Beck soon launched what he called the 9.12

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Project, culminating in a massive “taxpayer march” on Washington on September 12, 2009. Promoted by FreedomWorks, a lobbying group headed by former House Republican leader Dick Armey and by commentators on Fox News and talk radio, the Tea Party movement has become a major player in American politics, endorsing candidates, organizing rallies, and pressuring legislators to enact its agenda.

What is its agenda? Its “Contract From America” lays out ten demands, from dumping the Obama Administration’s “cap and trade” bill for limiting carbon emissions to establishing a balanced budget. The ten demands are bracketed together under three broad categories: “Individual Liberty,” “Limited Government,” and “Economic Freedom.” It has a familiar ring: I’m hearing Ronald Reagan.

In 1980 I had to choose between two candidates for the American presidency. The Democrat, Jimmy Carter, was a New Deal liberal—like me at the time. Reagan, the Republican, was a Goldwater conservative and an advocate of something called “supply-side economics,” which involved cutting marginal income and corporate tax rates. Reagan also wanted to cut the size of government and slow the growth of all government spending except for defense. I didn’t like Reagan’s economic proposals, which even his running mate had once called “voodoo economics,” and I worried that his anti-government bias was going to leave many domestic problems unresolved. If those were the only differences between Carter and Reagan, I would have gone on voting Democrat. But there was another difference. For the first time in its long history, the Democratic Party embraced abortion as “a fundamental human right” and insisted that any funding for “reproductive” services must include abortion funding. The Republican Platform also broke new ground. In place of its namby-pamby abortion stance in 1976, the 1980 Republican plank wasted no time affirming “our support for a constitutional amendment to restore protection of the right to life for unborn children.” In my scale of values Reagan’s position on abortion (good) so far outweighed his economic position (bad) that I had no trouble voting Republican. If the Democrats ever turned around on abortion I vowed to go back to them. But of course they never did, so I never did.

Something else was going on during the Reagan years. It came not from arguments over issues but from facts on the ground. “Stagflation,” the combination of high unemployment and high inflation rates that plagued most of the Carter years, virtually disappeared. Eighteen months after Reagan’s inauguration the economy was growing by more than 9 percent, and it continued to expand. By the time Reagan left office in 1989, unemployment had declined from 7.6 percent to 5.4 percent; inflation had dipped even more

dramatically, from 10.3 percent to 4.7 percent. Nearly 17 million new jobs were created during the Reagan years. True, all sorts of factors extraneous to his marginal tax cuts may have entered into those results, but, taking everything together, the facts did suggest that Reagan's economics had some merits I hadn't noticed in 1980. It finally made me a supply-side believer.

But not a true believer—never that. My conversion to Reagan's brand of political economy was not based on any kind of moral absolutism. If, in some hypothetical future, New Deal-style stimulus programs were tried and found to work magnificently, creating tons of private-sector jobs without inflation and expanding the nation's wealth—then, without the least qualm of conscience, I'd be a New Dealer again. Not a problem.

The life issue is different. It can't even be formulated in pragmatic language. ("This pro-life stuff isn't working, so I'll try pro-choice." Not that politicians haven't done that, but we know what to call those types. ) Of course, an authentic pro-life politician can use pragmatic *means* for reaching the goal of ending abortion. In the 1850s Abraham Lincoln took that approach to slavery. His platform would not immediately ban slavery but "arrest the further spread of it," cut off its blood supply, by not allowing it into the new territories. But he left no doubt about his final goal: Slavery must be put "in the course of ultimate extinction."

Unlike Reagan's platform, the Tea Party's Contract makes no mention of abortion or of any other life issue, such as assisted suicide or embryonic-stem-cell research. Not that many individual Tea Partiers don't favor the pro-life cause. A Gallup poll conducted last March showed 65 percent of them declaring themselves "pro-life" (compared to 46 percent of all adults). Yet the Tea Party "contract" says nothing about abortion. All right, fair enough: The movement cannot afford to take sides on abortion, gay marriage, or any of the other so-called social issues; if it did, it would split its ranks and possibly drive off a third of its members. And yet—here is another yet—the Tea Party movement is as fervent as a candlelit procession in front of an abortion clinic. You can't turn on Glenn Beck for two minutes without hearing it. There are invocations of Divine Providence, requests for prayer, prophecies of national doom unless America repents, beatification of America's Founders, and allusions to the great moral crusades of the past, such as the anti-slavery and civil-rights movements.<sup>1</sup> But do the rather mundane goals of the Tea Party movement—lower marginal tax rates, less government regulation, and freer markets—rise to such sublime heights?

Some would insist that they do—that, properly understood, the goals of the Tea Party movement transcend economic concerns. Ray Nothstine of the Acton Institute thinks that Tea Parties have the potential of awakening

America's "moral culture of politics and public discourse." Former House Speaker Newt Gingrich is convinced that they stand not for grubby material things but for "human flourishing." He warmly praises *The Battle*, a new book by Arthur C. Brooks, president of the American Enterprise Institute, which argues that a free-market economy "is about who we are as a people and who we want to be." Not to be outdone, Timothy Dalrymple, on the religious website *Patheos.com*, argues that the Tea Party is actually a "social justice" movement. Dalrymple seeks to turn the tables on Jim Wallis, the left-wing evangelical who thinks Tea Partiers are "un-Christian" for opposing the welfare state and demanding lower taxes. For Wallis, those Tea Partiers who aren't outright racists—and he suspects there are plenty of them though he offers no evidence—are at best selfish "libertarians" who couldn't care less about the poor and vulnerable members of our society. Dalrymple considers this a vicious slander. Far from being selfish, the movement seeks to protect the common good of all Americans by reining in the excesses of government spending. "It serves no one's interest, and certainly not the interests of the poor and vulnerable, to cripple our economy and hang around its neck a massive albatross of debt."

Everything Nothstine, Gingrich, Brooks, and Dalrymple say about the Tea Party movement may be true. But if so, why doesn't this movement of America's "moral culture," "human flourishing," and "social justice" have a plank calling for the protection of human life? Doesn't that come under the category of social justice and human flourishing? If, on the other hand, the Tea Party movement is basically about tax cuts, free markets, and small government, then OK, let it be. But if it is ultimately about "who we are as a people and who we want to be"—then shouldn't there be some place in Tea Party discourse for the rights of our most vulnerable people?

I've been circling around the edges of a fear that underlies what I've been trying to say. Now I'll just blurt it out. What worries me is that the Tea Party movement, which has features strikingly similar to the right-to-life movement, may draw away some of its energies, distract it from its main focus, and to some degree weaken its resolve.

The emotional tone of both movements is very similar. Both, in their marches and demonstrations, combine moral seriousness with joyful camaraderie. You could almost forget that the two movements are fundamentally different in their aims, the one seeking tax cuts and smaller government, the other trying to stem the tide of mass killing. Both draw from the same demographic pool. The Tea Partiers include higher percentages of Southerners and Westerners than the right-to-lifers, but both are composed predominantly of white, middle-class, and suburban or small-town folk. The great majority

are either Catholics or low-church Protestants, with many of the latter “born again” or evangelical. No person comfortable in one movement would experience any cultural shock in visiting the other—and that itself is a problem. Time is limited. Shall I go to the March for Life or the Tea Party rally next week? Even if they aren’t on the same day, can people do both while meeting all their other obligations? And how do they decide on spending priorities when both are asking for money?

There may be a deeper dilemma lurking behind the Tea Party movement than the one resulting from the finite supply of time, energy, and money. Consider again the Gallup poll of last March showing 65 percent of Tea Partiers identifying themselves as pro-life. That means that 35 percent are *not* pro-life. They are either pro-abortion or, at best, indifferent to what the Catholic bishops have called “the preeminent moral issue of our time.” At least one-third of the Tea Party movement belong in the category not of social conservatism but “libertarianism.” They just want government out of our lives—out of our boardrooms and bedrooms, away from our computers and our TVs, and, for some percentage of them, away from women’s “reproductive choices.” Now consider this scenario: You go to a Tea Party rally, you hear the speeches, get caught up in the excitement, and find yourself bonding with others. Afterwards you’re having coffee with some of them, talking about pending legislation and candidates, and soon the conversation drifts to other topics—your families, your homes, your neighbors. Then someone brings up abortion and the conversation suddenly freezes. Some of your new friends do not look happy. Others are ill at ease. What do you say? You could use it as a teachable moment, noting that human life is the first of the three “unalienable rights” set forth in the document most revered by Tea Partiers. That could start a good dialogue—or it could start making everyone tense and uncomfortable, causing division within a movement that needs unity above all. So then the alternative would be to change the subject, to engage in self-censorship on the issue closest to your heart. Whichever horn of the dilemma you choose, it has to hurt. Somehow it is easier to brave the shouts and taunts of our enemies than it is to risk embarrassing our friends.

It has been a quarter-century since I converted to what was essentially Tea Party economics. If I ever get the chance to vote for a Tea Party-backed candidate in a Republican primary, I will probably do it, even if it means rejecting a candidate with better prospects of winning the general election. But the movement will never capture my heart, because it doesn’t travel through that region. The Tea Party’s principles—free markets, restraints on government growth and spending, low taxes—appeal to my head. I applaud the Tea Party movement for resisting the attempt to foist a dysfunctional

economic system on this country. What the movement does not do is to locate the real source of my anguish, the fact that a very serious and determined attempt is also being made to foist a culture of death on us.

## II

Yet it is just here that the Tea Party movement could serve long-range interests of the right-to-life movement. Tea Partiers and pro-lifers may be aiming at different goals but they are resisting the same regime. The Obama White House is the second Democratic administration, Bill Clinton's being the first, to try to inject federally funded abortion into the arteries of the American health-care system. The obvious difference between the two administrations is that this one has succeeded. The health-care bill passed last March with no statutory ban on the use of federal funds for abortions. Such funding could seep out of several places in the legislation, and it has already started. On July 13 the Obama administration, acting under authority of the new law, began quietly disbursing more than \$197 million in federal funds to New Mexico, Maryland, and Pennsylvania for establishing "high risk" insurance programs for patients with urgent needs. Examining the Pennsylvania laws, Douglas Johnson, director of the National Right to Life Committee, discovered that by implication they permit the use of those federal funds for abortion. (New Mexico was more forthright; its high-risk plan explicitly included abortion.) When Johnson went public with his findings, the Obama administration quickly announced that, no, no, none of the money will be used for abortions, whatever state laws may say. Last March Obama had won the support of the so-called "pro-life Democrats" in Congress on the promise of an executive order embodying the Hyde Amendment ban on federal abortion funding. But the resulting executive order not only lacks the force of a legislative ban but also seems to be applied only when the administration gets caught ignoring it. Johnson sees the pattern: "They try to get away with what they can on abortion, and then when a light shines on them they blow smoke and scurry for cover."

Obama got his health-care legislation passed because of his relentless determination. He simply kept at it, even as its popularity plummeted. In January 2010, a weary Democratic Congress was ready to abandon the health-insurance bill after the loss of its filibuster-proof majority in the Senate. Public-opinion polls were showing that most Americans didn't like the bill anymore, and especially the methods used to ram it through (the "Louisiana Purchase," the "Cornhusker Kickback," etc.). Democratic members of Congress were worried about what would happen to them in the fall elections if they stuck with it. But Obama rallied them with the line that their seats would

be endangered if they *didn't* vote for the bill. They bought it, and though they may now be experiencing buyer's remorse, the thing is law, and even a Republican Congress won't be able to repeal it as long as Obama occupies the White House.

Determination is what makes Obama a more dangerous opponent of the pro-life movement than Clinton was. When Clinton's big-government health-insurance bill went down in flames in 1994, he not only gave up on it but also underwent a chameleon-like change in ideology. In his 1995 State of the Union address he grandly announced, "The era of big government is over." Clinton was an ad hoc, improvisational president; he could turn on a dime when necessary. When a Republican Congress in 1996 passed two successive versions of welfare reform, he vetoed both; but then, with Republican chants of "three strikes and you're out" reminding him that welfare reform was very popular with voters, he signed the third bill—ignoring the yelps of liberals. Hell, you do what you have to do to stay in office.

Obama seems to care less about staying in office than getting what he wants while in office, even if it's only for one term. He is a determined man, and his determination results from his firm ideological convictions. Unlike Clinton, he began his political education not in the '60s but the late '70s. The '60s was the decade of leftist street theater; the '70s was the decade of leftist pedantry. The "long march" of '60s-style radicalism was wending its way through America's educational institutions, producing a tsunami of publications with similar themes. The decade was bookended at one end by Charles Reich's *The Greening of America* (1970), and at the other by Howard Zinn's *A People's History of the United States* (1980). Reich announced the dawn of a new revolution that would give America "a higher reason, a more human community, and a new and liberated individual"; Zinn looked at America as "a world of victims and executioners." Countless writers of lesser renown emerged during the decade, giving us the same mixture of wrath and looniness. The narrative went along these lines: "America is not only not an exceptional nation, it is not a very good one. It slaughtered Indians, enslaved blacks, oppressed women, exploited workers, and forced immigrants to assimilate. Its armies projected its arrogance to the rest of the world, invading countries for their natural resources while its missionaries lectured them on the Protestant ethic. America today continues to be ruled by wealthy white capitalists who live in penthouses and gated suburban communities. The only way change ever comes about is when the victims rise up against their executioners. And that might happen. Allied with the working class, racial and ethnic minorities, feminists, and gays are establishing beachheads which, converging, may at last generate the fundamental changes necessary to

redistribute wealth and power in America.”

Condensed, stripped of academic ornament, that was the narrative Barack Obama absorbed during his formative years at the close of the '70s and the early '80s. He learned it from a variety of sources—from the leftist professors at Columbia whose classes, he tells us in his memoirs, he actively sought out; from fellow professors at the University of Chicago during his twelve years there; from his 20 years in the pews of the Rev. Jeremiah “God damn America” Wright; from his four-year association with Bill Ayers (no longer Bill Ayers the bomb-thrower but *Professor* Bill Ayers, still unrepentant, but now boring from within by disbursing funds to teach teachers how to become left-wing community organizers). In fact, the narrative was heard everywhere in academia during the late '70s. “Some of our most intelligent university professors,” Irving Kristol wrote at the time, “are now loudly saying things that, had they been uttered by one of their students twenty years ago, would have called forth gentle and urbane reproof.”

A dyspeptic vision of an unequal, racist America is what Obama carried into the White House in 2009. Despite his efforts to hide it from critical scrutiny, it slips out in unscripted, unteleprompted moments, as when he told Joe the Plumber that America needs to “spread the wealth around,” and when, at a private fundraiser, he trotted out the old Marxist explanation of working-class “false consciousness” (“So it’s not surprising then that they get bitter, they cling to guns or religion or antipathy to people who aren’t like them or anti-immigrant sentiment or anti-trade sentiment as a way to explain their frustrations”). The narrative helps to explain his international “apology” tour, when he decried American “arrogance” to foreign audiences, and it accounts for some of the puzzling decisions of his administration, such as holding a civilian trial in Manhattan for the foreign terrorist who planned the 9/11 attacks, imposing a six-month moratorium on all deep-water drilling because of a blowout at one well, and allowing upper-bracket tax rates to rise during a recession. Seemingly irrational, such decisions would make perfect sense to someone who believes in the inherent wickedness of American military and capitalist institutions.

Obama’s vision of America also helps explain his choice of “czars.” *Van Jones*, Obama’s former “green czar,” was forced to resign after it was revealed that he had signed a petition suggesting that George W. Bush was behind the 9/11 attacks. But for weeks earlier the administration defended him after tapes surfaced showing him bragging about his conversion from black nationalism to “communism” and lecturing an audience on how to use the green movement to abolish capitalism: We start off by moving from “suicidal gray capitalism” to “eco-capitalism.” But then we “are going to push it

and push it and push until it becomes the engine for transforming the whole society.”

There are others of like mind in the Obama administration. There is *Donald Berwick*, who was given a recess appointment last summer as director of Medicaid and Medicare Services. “Excellent health care is by definition distributational,” he said in a speech in 2008, in which he praised Britain’s system of socialized medicine. Particularly disturbing to pro-lifers is Berwick’s view of rationing. Since rationing is inevitable anyway, he said, the rule should be, “Don’t trust market forces, trust leaders with plans.” The “plans” he favors would cut off life support for patients judged by the planners to have reached a terminal stage. *Ezekiel Emanuel*, health-care-policy adviser for the Office of Management and Budget (and brother of White House adviser Rahm Emanuel) thinks that health care should not be guaranteed to people who are “irreversibly prevented from being or becoming participating citizens.” An “obvious example” would be “patients with dementia.” Then there is *John Holdren*, presidential science adviser, who wrote *Ecoscience* (1977) with his mentors Paul and Anne Ehrlich, the famous population doomsayers of the 1970s. As a remedy for “overpopulation,” Holdren and the Ehrlichs proposed “population control” combined with “redistribution of wealth within and between nations.” Indeed, “compulsory population-control laws, even including laws requiring compulsory abortion, could be sustained under the existing Constitution.” (They added that “few” today think it has to come to that in America—leaving us to wonder if they might be among those few.)

If Berwick, Emanuel, and Holdren seem to have a bit of Dr. Strangelove in them, others in the administration fall into the downright creepy category. Deputy Attorney General *David Ogden*, a former attorney for the “adult entertainment” industry, has attacked legislation banning child pornography and argued against parental notification on grounds that there is no “qualitative” difference between children and adults. *Kevin Jennings*, Obama’s “school-safety czar,” is the founder and former director of the Gay, Lesbian and Straight Education Network (GLSEN), an organization that distributes reading lists of gay pornography to grade-school children and promotes child-adult sexual relationships. Think about that: school-safety czar.

Political appointees, especially at the subcabinet level, tend to be chosen from the successful candidate’s electoral base—in Obama’s case, from activists in various far-left circles. It is reasonable, then, to assume that there are quite a few other wackos like the ones I described scattered around the administration. And each has a built-in force multiplier, in the form of staffers eager to carry out the boss’s mission.

We can console ourselves that, as political appointees, they'll be gone with the departure of this administration. But at the earliest that would be more than two years from now (otherwise, six!) and a lot of permanent damage could be done by then. We can already anticipate the damage to federal jurisprudence by the appointment to the Supreme Court of his solicitor general, Elena Kagan. Consider what she has already done to it.

Thirteen years earlier, as an adviser to President Bill Clinton, Kagan sought to drum up professional support for Clinton's decision to veto the congressional ban on partial-birth abortion. A meeting was arranged with representatives of the American College of Obstetricians and Gynecologists (ACOG). However, after considering the matter, a group of doctors convened by ACOG sent the White House a draft statement saying they "could identify no circumstance under which this procedure. . . would be the only option to save the life or preserve the health of the woman." Kagan immediately recognized this statement as, in her words, a "disaster" for Clinton's position. So here is what she did. She *added* a sentence to it, saying, "An intact D&X [partial-birth abortion], however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman." She did not get that statement from ACOG or from any physician. She just made it up. Yet it completely changed the meaning of the original statement. Later, when partial-birth cases were working their way through the courts, many judges cited the ACOG statement with her addition in it, not realizing that it came from a lawyer rather than a doctor. The document she corrupted was used to support later court decisions! This is the woman former law professor Barack Obama thought worthy to sit on the United States Supreme Court. And why not? Her friend and former law professor Greg Craig has described her as "a progressive in the mold of Obama himself."

Everything about this administration, from its policies to its choice of key administrators and judges, shows how different it is from previous administrations, Republican and Democratic. It is not liberal, it is not center-left, it is far-left. It is determined to get its way, and on crucial issues it has. With its allies in Congress it has passed two major pieces of legislation, taken over banks, student loans, and auto companies, and wasted nearly a trillion dollars of stimulus money. On the issue pro-lifers most care about, it has laid the foundation for national abortion funding. On the issues emphasized by the Tea Party movement, it has created massive new bureaucracies, crippled the private economy, and pushed the United States close to bankruptcy.

One final quibble with Tea Party philosophy: The enemy is not "big government," it is *this* big government. At various periods in our history a "big,"

or robust, central government has been necessary, and down through the years American statesmen such as Alexander Hamilton, John Marshall, Daniel Webster, and Theodore Roosevelt have made arguable cases for it. What makes *this* big government different is that it is informed by a distorted, one-dimensional vision of America, a vision that crept out of the American academy in the 1970s. Lacking any complexity or depth, it lacks the capacity for questioning, and thus restraining, the ideology that has emerged from it. It is unrestrained by the past because it does not respect our past. It is unrestrained by Judeo-Christian culture because it does not recognize a legitimate public role for religion or for norms derived from religion, even though it sometimes cynically uses religious themes and symbols as window-dressing.

Where the interests of Tea Partiers and pro-lifers converge at the moment is on the need to weaken the power of the regime. Whether trimming the size of government and cutting spending and taxes are always wise policies, as the Tea Partiers insist, both movements can agree that such policies are urgently needed now. And there is reason for hope. In January a new Congress will convene. Right now it looks as if at least one of its houses will be in a position to investigate the administration's practices, to push back against it with the votes of bipartisan coalitions (including "blue dog" Democrats resentful of the way they had been treated in 2009-10), above all to use the power of its purse to dry up its revenues. Dragon-slaying will have to wait until 2012, but in the meantime we can join our Tea Party friends in a joint campaign to starve the beast a little, making it more docile—but never taking our eyes off our *singular* cause, our Lincolnian mission to put abortion "in the course of ultimate extinction."

## NOTES

1. In the June 28 issue of the conservative *Weekly Standard*, Matthew Continetti distinguishes between "the two faces" of the Tea Party movement—one, represented by Rick Santelli, which he considers forward-looking and constructive, and the other, by Glenn Beck, that "looks to a distant past," and "feels not just pessimistic but apocalyptic." Continetti fears that Beckian extremism could cost the Republicans seats that they could have won with a more moderate stance. One difficulty in his argument is that it seems to exaggerate the difference between the two tendencies in the movement. Santelli's "rant" (Continetti's term) did not seem very moderate to observers at the time. More importantly, Continetti fails to appreciate the role of razzmatazz in energizing and motivating mass movements. Mobilizing a million people on the streets of Washington requires a more boisterous rhetorical style than what we'd expect to hear in the offices of *The Weekly Standard*. I have serious reservations about Beck's historiography, but I would not want to see the movement inhibited at the start by excessive caution.

# A Medi-scary Appointment

William Murchison

Among the hoariest arguments in politics—for that matter, in most areas of human endeavor—is the argument of the “slippery slope.” That’s to say, if you have that second beer/toss your parking tickets/hang out with no-goods, you’re headed, sure as the world, for weekly AA engagements/a criminal career/life in the welfare line.

Well, I don’t know. Maybe and maybe not. One thing easily knowable is that the argument of the slippery slope has a respectable foundation in observed human experience. A second beer need not lead one inexorably to the gutter; but I dare say it’s been known to happen, else the utility of cautioning against a second beer would never have entered helpful (likely parental) minds.

With regard to human-life questions, the effects of the slippery slope are easily documented and painfully observed: The deterioration in official respect for unborn life, as facilitated by *Roe v. Wade*, leads many to see assisted suicide as a reasonable measure in cases of pain, exhaustion, or, frankly, just personal inconvenience.

A year or so ago, Wesley J. Smith, in *National Review*, wrote of the ease with which “affluent and well-tailored liberal women” have embraced a cause formerly identified with “the kook fringe”—the likes of “ghoulish Jack Kevorkian” (about whom an HBO movie was recently broadcast, starring Al Pacino—talk about slippery slopes and the normalization of the abnormal).

“Changing the movement’s image has made a difference in its results,” Smith explains. “Three states have legalized assisted suicide—Oregon and Washington by voter referendum, and Montana by a court ruling. States from Hawaii to Vermont have experienced protracted legislative battles over the issue, the tide in favor of assisted suicide rising incrementally with each failed experiment.” Smith cites as underlying cause the “powerful myth” that “Oregon’s experiment with legalized assisted suicide has been a success.” For an image to change, I would add, one helpful precondition is familiarity. We grow accustomed, over time, to things that scandalized us the first time we saw them. Oh, well, we shrug, as we proceed to fret over something more timely. So with abortion; so with the idea, at least, that life

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can grow so burdensome as not to warrant preservation.

Down, down the slope we coast, gathering speed, inspiration, and, yes, entirely new ideas for extension of the non-privilege of living. Leave it to Nat Hentoff, among others, to spot with Hentoffian clarity the next frontier for the shedding of the protections human life used to enjoy. Let's see—unborn children, the tired and the suffering, who's next in line for consideration? How about the hospital patient whose particular needs don't stack up against the needs of other patients—as adjudged and harmonized by government-designated Experts?

A Hentoff column commends to us careful study of the background and aspirations of Dr. Donald Berwick, who, by virtue of a recess appointment from President Obama, is bringing to the United States the glories of the British National Health Service. Prior to becoming chief of the federal Centers for Medicare and Medicaid Services (CMS), Berwick spoke in lavish praise of that British specialty, the rationing of health care; the parceling out to particular patients of the care to which the government believes them entitled. The *Wall Street Journal's* Daniel Henninger calls the appointment—intended as an end run around senators who in a confirmation hearing would have asked potentially embarrassing questions—“probably the most significant domestic-policy personnel decision in a generation,” with large implications for the country's present and future courses.

Long, passionate public discussions of human life, in the context of health-care reform, are about to engage a nation not so much slipping as starting to careen toward official renunciation of its commitment to prefer life over death. President Obama, by ushering Berwick to his office during a Senate recess, managed to postpone large-scale examination of these particulars. To postpone, of course—a political speciality—is merely to delay. And by delaying, to enlarge the stakes.

Hentoff predictably is explicit about those stakes, saying, “Unlike Obama, Berwick is enthusiastically, openly candid in his support of Britain's National Health Service. In a 2008 speech to British physicians, our new health czar said: ‘I am romantic about National Health Service. I love it [because it is] ‘generous, hopeful, confident, joyous, and just.’”

It is, huh? Like when it “decides which care can be too costly for the government to pay”? Hentoff quotes the Cato Institute's Michael Tanner as to the workings of the rationing ethic, overseen by the British system's National Institute for Health and Clinical Excellence, known for gorgeously ironic reasons as NICE.

NICE, says Tanner, “acts as a comparative-effectiveness tool for the National Health Care Service, comparing various treatments and determining

whether the benefits the patients receive—SUCH AS PROLONGED LIFE [Tanner’s capitalization]—are cost-efficient for the government.”

Back to Hentoff: “So listen to our very own decider of how the Obama administration will lower our national debt by cutting inefficient health-care costs. After declaring his ardent romantic attachment to the British system, Berwick said: ‘All I need to do to rediscover the romance is to look at health care in my own country.’ He will, of course, be too busy to attend the funerals of the sacrificial Americans whose lives—not only those of the elderly—may thereby be cut short.”

Heninger, for his part, culls exceedingly non-romantic quotations from Berwick speeches, illustrative of the new reality in American health care. Among them:

“I cannot believe that the individual health care consumer can enforce through choice the proper configurations of a system as massive and complex as health care. *That is for leaders to do* [italics mine].”

“You cap your health care budget, and you make the political and economic choices you need to make to keep affordability within reach.”

“Indeed, the Holy Grail of universal coverage in the United States may remain out of reach unless, through rational collective action *overriding some individual self-interest*, we can reduce per capita costs [italics mine].”

“A progressive policy regime will control and rationalize financing—control supply.”

“Young doctors and nurses should emerge from training understanding the values of standardization and the risks of *too great an emphasis on individual autonomy* [italics mine].”

Let us stand back a ways from this matter. There is much to look at, and the picture must be seen whole, not in flecks or impastos.

Not that it’s possible to move far without noting Dr. Berwick’s coolness to the idea of “individual autonomy.” The irony is large. Autonomy in respect of the decision to give birth was the value the U.S. Supreme Court thought it was affirming in *Roe v. Wade*, as in subsequent decisions upholding *Roe: Planned Parenthood v. Casey*, for instance, in 1992. The court, in *Casey*, held up *Roe* as a rule of “personal autonomy” protecting all “intimate and personal choices . . . central to human dignity.” Such language would seem to sail in a direction entirely away from that intended by Dr. Berwick.

Consider what Berwick could be taken as having in mind: the shrinking of that physical autonomy when it comes to questions of health care. To enjoy autonomy over one’s body, it’s essential, wouldn’t you think, to have the say-so over the care one receives. To deny one form of care, or to reduce the time frame for its application—isn’t that to violate precious autonomy?

Yet the British national health system, which Berwick professes to love with all his heart, takes health-care decisions away from individuals, depositing those decisions in the hands of “experts.” Isn’t that, for *Roe* supporters, kind of a step backward toward The Bad Old Days?

I remark these considerations as characteristic of the moral morasses into which the culture falls in seeking liberation from the big truths of our existence. In other words, the quest for autonomy doesn’t really get one very far. Hack down one truth (e.g., life is good) and somebody else’s truth (e.g., life isn’t always good) comes out of the ground to overshadow thought and action. Which is a theological point for another occasion. Let us return to the argument with which we began—that of the slippery slope.

*Roe v. Wade*, and the culture’s resultant embrace of abortion as if it were of no greater moral consequence than knee replacement, have undermined the premises for robust defense of human life. To approve and even celebrate the extinction of life in the womb is to make a statement about life’s provisionality. Provisionality in respect of what? Circumstance, for one thing. “It’s not the right time.” “I’ve got enough kids now.” “We can’t afford it.” “What would I do with a baby?” “Sex is about fun, not scheduling dates with the Ob/gyn.”

A second form of provisionality concerns the indignity of surrendering to necessity. We covered a little of this territory just above. Dignity, to the culture of the present day, means control. It means being in charge. “A culture/government/church that tells me I can’t do what I want with my body degrades my humanity, reduces my worth.” The centrality of the first person singular in all this discourse shows what is fundamentally at stake: I am!

Well, on from there, then. If I’m really, truly in charge of my body and biology, it follows that no one can instruct me as to when and how I end my life. Where’s the moral principle that says otherwise? We left that principle back in the trash bin at the Supreme Court building, when the learned justices handed to women less than complete yet still significant “autonomy” over their lives and bodies.

The new moral principle is choice—his choice, her choice, most of all, *my* choice, my very own. A larger trepidation attends and surrounds the exercise of that choice. To say you want Dr. Kevorkian, or some disciple of the great jailbird, to hasten your exit from life is to do something autonomous all right—leaving no chance for restating and reliving the principle. Dead is dead. The slippery slope down the mountainside has its, shall we say, personal perils as well as its exhilarations. Perhaps the two complement each other in an age when the life-is-good principle has gone out the window.

Careful. The path winds farther down the mountain. Winds down to the

place where Dr. Donald Berwick stands, with his profound reservations about the relationship of societal good to personal autonomy. It is an odd place to find one's self in the modern age; still, a logical place.

I hope not to overstate. The accession of Dr. Berwick to the top supervisory job at Medicare and Medicaid cannot be taken as proof that moral collapse and the Second Coming lurk just around the corner. What I think his accession amounts to is evidence. A United States president, by handing Berwick his present job, comes very near ratifying Berwick's once-extraordinary view that it's OK to ration health care or anyway think about rationing it: OK, that is, for "experts" to decide the merits of one life as against those of another life. This is something new in our moral calculus. No such views have heretofore enjoyed anything like the prominence the Berwick appointment gives them. Certainly no previous U.S. president has implied—in our supposed behalf—his acceptance of such notions.

**I**t is fair, might not one say, to ask a simple question: Had there been no *Roe v. Wade*, no retreat at the governmental level from the life-is-good principle, could the nation's top Medicare official now discuss the rationing of health care—the assignment of values for the treatment of particular patients? Could he assert the government's right to "override individual self-interest," "enforce the proper configurations" of a large and complex health care system," "control supply" of this or that service?

I don't see how he could have, really. The pre-*Roe* culture, if not always with hand over heart (inconsistencies being part of the human condition), asserted life's essential value—its right to the protection of government. The medical profession generally joined in that assertion, obedient to ancient views (as in the Hippocratic Oath) concerning a perceived duty in the great majority of circumstances to sustain and lengthen life.

From *Roe* came the present ethic of life, an ethic notoriously unreliable in its premises. A Berwick, or a Peter Singer, inherited from the *Roe* court the right to question in non-abortion contexts the whole idea of sustaining life just because it was life. There was in fact more to the matter than asking questions. There was the corresponding privilege of being taken seriously in serious circles, such as universities, churches, and magazines afford thoughtful questioners.

So, yes, Dr. Berwick has the power to discuss restriction of autonomy. He can also now, having assumed a powerful position in the federal government, work to put flesh on his notions. With respect to health care, the life-is-good principle becomes relative in practical terms. Maybe good, maybe bad, it all depends. Very sick people, you know—no point, possibly, in

authorizing them to hang on; not when others may better deserve the technology, the treatment; not when, for that matter, particular sick persons or their families may not understand what they really need. In these vexed matters, who decides what people really need? The government: at any rate, the government apparatus now under construction, with *Roe v. Wade* as essential scaffolding. There is the irony. It was the government, in *Roe*, that opened the door to autonomy; now the government (for reasons centered on the Public Good) begins to eye the knob, considering whether the door should open to all or shut to some. The government as doorkeeper: As a society we draw nearer and nearer to that startling prospect.

Various Americans talk of throwing the process into reverse gear: ousting Berwick and such friends as he brings to CMS; working with Congress for the repeal of ObamaCare. We'll see. A future Republican presidential administration might put a damper on Berwickian enthusiasms, but one doesn't reverse overnight, if at all, the relativism that informs modern views of the life question.

Is life good, or isn't it? How good, how valuable, how vital or not-vital? In *Roe*, the Supreme Court came down on the side of what we could call A Little Bit Vital; not so overwhelmingly vital as to deprive the mother absolutely of the right to decide whether to discontinue the life inside her body or to accept and nurture it. With *Roe*, life became, formally, an option. The question thereafter was merely, whose option?

That anyone could have expected an entity as large and powerful as the government not to get involved in parsing the question is a wonder for sure. The government was involved already. Its highest court had overruled the moral/religious premise that life, once initiated in the womb, had priority over other projects. In the matter of euthanasia the government might not intervene. It might deny assisted suicide, it might allow it. It depended. Nothing was to be taken for granted, least of all the priority of breath over against extinction.

America's first, tentative steps into the world of government-controlled health policy raise, as Nat Hentoff notes with customary concision, deep questions we have hardly begun to face. Dr. Donald Berwick has both faced and answered a few of those questions. He has said (albeit outside his present capacity of public servant), that life really is a relative matter: much more so than Judeo-Christian civilization ever instructed us in the past. When is life desirable, and when is it a little less so—if indeed it's desirable in any transcendent sense? Farther down the slippery slope, it may not be necessary to put those questions at all. The government will inform us through regulation or administrative decision.

APPENDIX E

The moral systems of the past two millennia have been collapsing for decades now: some would say, since the Enlightenment. With the passing of the old “prejudice” in favor of life as the gift of God, we start to glimpse consequences that could make the hair stand on end. To the question of life’s goodness, the old civilization never replied, well, you know, it depends. But as people today so often say, that was then; this is—unmistakably, grimly, ever so challengingly—now.



*“You have a lighter—I like that in a man.”*

## From the Archives:

### On Being Alive (1977)

Sondra Diamond

I have been physically disabled since birth as a result of brain damage. My disability is called Cerebral Palsy. Many people believe that Cerebral Palsy is synonymous with mental retardation. However, this is not true. When I was born my parents were told that I would never be able to speak, hear or do anything that other children could do. It was suggested that I be put away in an institution. My parents, however, felt that I had as much potential as their two older children.

In the November 12th, 1973 issue of *Newsweek* Magazine in the Medicine section, there appeared an article titled "Shall This Child Die?" It was about the work of Doctors Raymond S. Duff and A.G.M. Campbell at the Yale-New Haven Hospital of Yale University. The article reported that these doctors were permitting babies born with birth defects to die by deliberately withholding vital medical treatments. The doctors were convincing the parents of these children that they would be a financial burden; that they had "Little or no hope of achieving meaningful 'humanhood.'" The doctors recognized that they were breaking the law by doing away with these "vegetables," as they choose to call these children, but they felt that the law should be changed to make it legal to let these children die.

I was incensed by this article in *Newsweek*, although I was glad that the subject finally was coming above ground. For I had been aware of this practice for many years.

Feeling that I had to do something about this article, I wrote a Letter to the Editor of *Newsweek* Magazine. It was published in the December 3rd, 1973 issue, as follows:

I'll wager my entire root system and as much fertilizer as it would take to fill Yale University that you have never received a letter from a vegetable before this one, but, much as I resent the term, I must confess that I fit the description of a "vegetable" as defined in the article "Shall This Child Die?" (*Medicine*, Nov. 12).

Due to severe brain damage incurred at birth, I am unable to dress myself, toilet myself, or write; my secretary is typing this letter. Many thousands of dollars had to be spent on my rehabilitation and education in order for me to reach my present professional status as a Counseling Psychologist. My parents were also told, 35 years ago, that there was "little or no hope of achieving meaningful "humanhood"

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Sondra Diamond was, at the time this essay was published, a professional counselor in private practice in Philadelphia who wrote and lectured widely on the problems of the disabled.

for their daughter. Have I reached “humanhood”? Compared with Doctors Duff and Campbell I believe I have surpassed it! Instead of changing the law to make it legal to weed out us “vegetables,” let us change the laws so that we may receive quality medical care, education, and freedom to live as full and productive lives as our potentials allow.

The physically disabled in our society have historically been second-class citizens. And, as such, they have been subject to the same indignities that other minority groups have had to endure. Some 10% of the population of the United States is physically disabled. And that figure is merely an estimate, for these are the people who are on record in hospitals, agencies, and the like.

For most able-bodied people, willingness to contemplate the problems of the physically disabled is tempered by the fact that they have a set of notions and feelings about people different from themselves, whether they be of a different race, nationality, sex—or the physically disabled. I *am*, of course, especially interested in the feelings about the physically disabled. These feelings cannot be ignored; they must be faced head-on. One tends to examine his feelings about the disabled in terms of his own fears, self-doubts, and his own self-concepts about his own body image. It is too easy to project how you think *you* might feel if you were physically disabled. Being disabled is not the same as thinking about what it would be like if you were disabled. Being disabled is not intrinsically a burden. It only becomes so when society makes it difficult to function as a normal person. Technology allows the disabled to move about and function freely. It is only when society says *stop* that a physical disability becomes a handicap. In view of the fact society sees a physical disability as a burden, it is, for many, a natural assumption that the physically disabled would be better off dead. I cannot agree with such a solution.

Perhaps we should take a closer look at how I feel about being disabled. What *is* it like to be disabled? It’s happy, it’s sad, it’s exciting, it’s frustrating, it’s probably just like being non-disabled. You worry what will become of you when your parents are no longer around to help you with your special needs. You want to go places and do things just like everyone else. You have the same sexual drives, the same hopes and dreams for marriage and a family, the same aspirations for a successful life.

Being disabled is also a puzzling experience because people don’t react to you the way *you* feel inside. People look at you and assume that you are retarded or incompetent or a pitiful sight. But you don’t feel retarded, incompetent, or pitiful.

The right-to-life issue affects the disabled in three principal ways: First,

there is negative euthanasia which is practiced on newborn infants who are born with physical disabilities and abnormalities. When a child is born with a disability, many members of the medical profession do not administer the necessary supportive medical services. It is argued that the child will be physically disabled the rest of its life anyway. If this were to be done to a child who would not grow up to be disabled, the courts would intervene. There have been many cases where the parents, for reasons such as religion, have not wanted their newborn infant to receive medical care. Court orders have been obtained by the physicians so that they could perform the necessary procedures.

Second, euthanasia affects the physically disabled when we are hospitalized for medical problems other than our disabilities. To give you a personal example: In 1962 I was severely burned over 60% of my body by 3rd degree burns. When I was taken to the hospital the doctors felt that there was no point in treating me because I was disabled anyway and could not lead a normal life. They wanted to let me die. My parents, after a great deal of arguing, convinced the doctors that I was a junior in college and had been leading a normal life. However, they had to bring in pictures of me swimming and playing the piano. The Doctors were not totally convinced that this was the best procedure—grafting skin and giving me medication as they would with other patients—but my parents insisted that I be ministered to. Mine was not an unusual case. To take the time and effort to expend medical expertise on a person who is physically disabled seems futile to many members of the medical profession. Their handiwork will come to nought, they think.

The third way euthanasia affects the physically disabled is when a person in adulthood becomes disabled. There are two parts to this problem. Firstly, should that person be treated and rehabilitated if he is not going to lead a normal life? Secondly, what if that person asks to die? If you have never been disabled you are not aware of the many options in life. Therapeutic rehabilitation techniques, self-help devices, and prosthetic and assistive equipment make the lives of the disabled very functional. It takes a great deal of time to discover these things. First the medical problem must be overcome and this is up to the medical profession. It is only after the critical period of illness that a rehabilitation team can take over. If a person who knows that he will be disabled for the rest of his life asks to die, it sounds like an attractive option to his family: Why should he have to suffer? Intensive psychological counseling is needed to show the individual who will be physically disabled (and his family) that life holds a great deal of potential. We cannot deny that there will be problems, but one can enjoy a full and happy life

even though physically disabled. I would not give up one moment of life in which I could have another cup of coffee, another cigarette, or another interaction with someone I love.

Many people ask me about the person who is so severely disabled that he or she can only lie in bed. Shouldn't he be allowed to die? they ask me. We cannot know what is going on in that person's head—especially if he cannot communicate with us through speech. Perhaps he is enjoying the sensual experience of lying on cool sheets, or the pleasure of good food, or being held by another human being.

A friend of mine is unable to move as a result of severe arthritis which struck him in adulthood. He cannot see. He can only speak. He is the Editor of a newspaper for disabled people and conducts a very busy telephone life by means of special equipment. Believe me, he inspires many people. My friend is leading a full life and is one of the happiest people I know. Should we put him to death because he can't move the way other people do?

We have posed the problem of euthanasia and its effects on the physically disabled. What can be done to alleviate this problem?

First of all, as I said, you must face your feelings about the physically disabled—the negative ones as well as the positive ones. For you are human beings and must not think “I shouldn't feel this way.” In the abstract it is easier to fight against abortion, infanticide, and euthanasia if we know that these children will grow up to be whole human beings. Physical attractiveness has become very important in our society. What I am asking you to do is fight abortion, infanticide, and euthanasia on behalf of people who will be, or are, physically disabled. You cannot begin to do this until you throw away your prejudices and preconceived notions about the life of a physically disabled person.

I have concentrated here on the obvious ways euthanasia threatens the disabled, because those dangers are of course most obvious to me. I know that, for most people, the right-to-life issue means primarily saving the lives of the unborn from abortion. But there is a least-common-denominator: life itself. It is the right of the disabled to appreciate the gift of life, to celebrate it *for* itself. Thus I think we can help you. I know we *want* to help you, every bit as much as we want you to help us.

# Outfoxing the Grim Reaper

Mary Meehan

“I’m going to go at any minute,” Trendell Terry said. On a drizzly day in October 1972, he was crouched on the ledge of a roof, 17 stories above the traffic on Broadway, New York City. Police were up there on the roof with him, trying to talk him out of jumping but afraid he would do it if they moved too close to him. While a huge crowd on the sidewalks below watched the drama, Terry told police about his time in mental hospitals, unemployment, and separation from his wife and children. After nearly two hours of back-and-forth, an officer said the desperate man had been “out in the rain so long, he’s probably numb. He couldn’t hold on much longer if he wanted to.” Ten minutes later, the police made their move. While one officer distracted Terry from behind, Patrolman Michael McCrory moved quietly along the side of the roof, grabbed Terry, and yanked him off the ledge and back to safety. The crowd below cheered and applauded the breathtaking rescue.<sup>1</sup>

In 1990, another group effort saved Ravinder Sahra, who was depressed by his mother’s death and attempted suicide by jumping from the Woodrow Wilson Bridge into the Potomac River. (The bridge goes from Virginia to Maryland, bordering Washington, D.C.) Virginia Sherman, off-duty from her work as a security guard, was driving over the bridge behind Sahra when he suddenly stopped and left his car, leapt up on its hood, and jumped from there out into the river. Luckier than many who jump from high places, Sahra didn’t break his back or neck. He bobbed up and down in the water while Sherman urged him to hold on. “Life’s too short,” she yelled down to him. “Come to the side and let’s talk about it.” Meanwhile, other onlookers called the police—thus setting off, the *Washington Post* reported, “a rescue effort that involved five law enforcement agencies, two helicopters and a boat.” A Maryland policeman lowered a rope for Sahra to hold onto, and the D.C. police sent a boat to pluck him from the water. Meanwhile, Virginia Sherman continued to make herself useful by directing traffic.<sup>2</sup>

Twelve years later, on the same bridge, Alexandria, Va., police chief Charles Samarra grabbed a woman who was planning to jump. She told him that she would do so after the media arrived. “First of all,” he replied, “you’re not going to jump off the bridge. Second of all, the media’s not coming.” His was a swifter and blunter approach than police sometimes use—but it worked.<sup>3</sup>

Countless other rescues are quiet ones and have no audience for the drama

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of a life at stake. The rescuer may be a friend or family member, a volunteer on a suicide hotline, or a skilled therapist. Ideally, the rescuer acts before there is any direct move toward suicide, simply by giving the person in crisis a chance to talk and an offer of help.

The late Dr. Edwin Shneidman, who devoted his life to suicide research and prevention, put it as well as anyone could: "Suicide prevention consists essentially in recognizing that the potential victim is 'in balance' between his wishes to live and his wishes to die, then throwing one's efforts on the side of life. . . . Each individual can be a lifesaver, a one-person committee to prevent suicide." He said the person just needs "sharp eyes and ears, good intuition, a pinch of wisdom, an ability to act appropriately, and a deep resolve."<sup>4</sup>

This article will sketch major approaches to suicide prevention. It will focus on what can be done, first, to save the life at risk and, second, to make that life a better and happier one. The article will describe helplines operated by various groups. It will question the non-directive counseling approach favored by some activists and the ambivalence about doctor-assisted suicide shown by others. It will suggest what a layperson can do when a friend or family member seems desperate and inclined to suicide. And it will describe Solution Focused Brief Therapy, a promising way to help such people.

First, though, let's take a look at what puts someone at high risk for death by suicide.

### **What Pushes People Over the Edge**

In the United States, 34,598 people died by suicide in 2007.<sup>5</sup> Most people who die this way are depressed and desperate; and most are totally alone, both physically and mentally, when they die. Their deaths leave behind terrible shock and grief for family and friends. Another tragedy is that some people, while surviving suicide attempts, suffer paralysis or severe brain damage from those attempts.

Depression and other mental disorders are the largest single factor in suicide. Dr. Kay Redfield Jamison, a leading authority on bipolar disorder, has been frank about her own experience with that illness and her suicide attempt. She says she had reached "the end of what I could bear" and that she believed "my family, friends, and patients would be better off without me."<sup>6</sup> Others, too, describe a state of unbearable mental pain and total lack of hope.

Alcoholism and other drug abuse are also high on the list of contributing factors—and often included among the suicide-related mental disorders.<sup>7</sup> Sometimes the substance abuse is attempted "self-medication" for depression. But many other things may push someone over the edge. Death of a

family member, long-lasting trauma of physical and sexual assaults, divorce, financial catastrophe, criminal charges, or severe pain during terminal illness may lead to depression and desperation. People in crisis often believe their only choices are their current lives or death by suicide. They have too much mental pain and confusion to see how they might change their lives for the better. Often, though, they are deeply ambivalent about suicide. Many tell someone they are thinking about it with the hope that the other person will give them reasons to live. They may tell a friend or family member, but some prefer to call a telephone helpline.

### **Local Helplines and a National Strategy**

American suicide prevention centers go back at least to the Save-a-Life League, established in New York City in the early 1900s. Rev. Harry M. Warren, a Baptist minister, started the league. He and his volunteers focused mainly on counseling; but Rev. Warren sometimes provided financial aid, “a square meal, a train ticket home, or an invitation to rest” at his large home outside the city. The league developed contacts in many other cities and eventually added “National” to its name.<sup>8</sup> An Anglican priest, Rev. Chad Varah, started the Samaritans in 1953 in England. Samaritans emphasize listening and “befriending” to tide people over a suicidal crisis. The English group inspired similar groups in other nations, including the U.S.<sup>9</sup>

In Los Angeles, Dr. Edwin Shneidman and two other mental-health professionals used a different approach when they established the Suicide Prevention Center in 1958. Stressing both research and counseling, the center had an activist approach. *Very* activist: George Howe Colt, a writer who studied the center years ago, reported that several staff members once ran after a client who had gone out onto the center’s roof: They “managed to grab her and wrestle her back inside before she could jump.” On another occasion, when family members brought a suicidal woman to the center, and she tried to run away, a staff member “tackled her, put her in the car, and told her brother to sit on her while he drove her to the hospital.”

The Los Angeles center developed a telephone helpline, staffed by volunteers and open 24 hours a day throughout the year. Holt reported the work of a helpline volunteer named Pat, a very dedicated and patient woman. Pat used a large referral list as she dealt with lonely and desperate people who were contemplating suicide. “To the infirm, elderly widow Pat suggests she call her doctor in the morning, get some physical therapy, and become involved in a seniors group,” giving her names and numbers to call. “Pat’s voice inspires trust and confidence; even when the risk seems high, she never seems anxious or edgy.”<sup>10</sup>

There are now many crisis helplines and suicide-prevention lines around the United States. Whatever name they go by, they handle calls about many different crises, not just suicide. Community mental-health centers, church groups, and others sponsor the helplines. Some rely heavily on volunteers, while others use paid staff on their lines, and some have both.

For many years, helpline advocates were frustrated because they believed they were helping many people and saving lives, yet studies showed they had little or no impact on suicide rates. Research suggested they were dealing with many people who were distressed but not suicidal. Yet they were missing key groups, such as older men who live alone and are at high risk of suicide. Also, some callers had great difficulty getting through to helplines. They encountered repeated busy signals, and sometimes what might lead to ultimate despair: calling a suicide hotline, only to be put on hold.<sup>11</sup>

A 2007 study was more encouraging, though it showed that more improvements are needed. Of 380 callers to eight crisis centers, nearly 12 percent said the calls “prevented them from killing or harming themselves.” The study found that most helpline counselors worked with callers to develop action plans. Such plans might deal with seemingly simple, yet crucial, human connections, such as “having a friend come over to stay with caller” or “calling friends and family members.” Of the 78 percent of callers who remembered their action plans during follow-up interviews, 75 percent had completed some or all of their plans. Their action on referrals, though, was not as good. Of those given new referrals to mental-health services, only 35 percent had followed up by keeping or making appointments. The authors suggested more follow-up calls, especially to callers at highest risk of suicide. They also suggested increasing helpline workers’ “knowledge of community resources.”<sup>12</sup>

Work on a suicide helpline, while not for the faint-hearted, can be very rewarding. At the Volunteers of America office in Everett, Washington, where mental-health professionals staff the crisis helpline, their work is much more than just a job. Karen Kipling, VOA regional vice president, said that at day’s end, a staff member goes home and thinks, “Wow! I really helped somebody in a very difficult kind of situation.” Kipling added that “you end up feeling very good about that work.”<sup>13</sup>

The federal government has funded much research on suicide for decades. In 2001 a flock of federal agencies, led by then-Surgeon General David Satcher and aided by private groups, developed a National Strategy for Suicide Prevention (NSSP). It outlines an ambitious effort to mobilize both public and private agencies, at all levels, against suicide.<sup>14</sup> The NSSP takes a public-health approach, which has the strength of great determination; but that

approach sometimes over-medicalizes issues that have other aspects and fails to appreciate limits on government power.

Dr. Alan Berman, executive director of the American Association of Suicidology, helped design the strategy. Asked about its effects so far, he said it “has set the stage for a long-term effort to prevent suicide” and “has catalyzed every state in our nation to follow suit and develop a strategy or plan.” But he remarked that the NSSP has been “underfunded” thus far and that its public-private partnership “is only now about to happen” with establishment of an Action Alliance. “We clearly have a long road still ahead of us,” he said.<sup>15</sup>

### **Some Uncertain Trumpets in the Band**

The suicide-prevention movement includes legions of fine people, both lay and professional, who have saved many lives. I believe, though, that some professionals undervalue the contribution of lay people and rely too much on “non-directive counseling.” Some are even ambivalent about suicide itself.

In suggestions on how to deal with suicidal people, a key federal agency urges lay folks: “Do not offer advice, but let them know that they are not alone.”<sup>16</sup> I think the part about not offering advice insults the intelligence of lay people and frustrates their ability to be helpful. Sometimes advice is desperately needed, no matter who gives it. In the most critical cases: “Please put that gun down!” or “Hey, come down off the ledge so we can talk!” In other cases: “Let’s go get a cup of coffee and look at other ways to solve this problem.” That conversation over coffee can offer hope to the troubled person, and it may lead to a decision to find professional help. But some suicidal people don’t want to consult professionals because of prior bad experience with them or lack of money to pay them. So a lay person may be the only one who can provide both hope and practical aid.

In website advice, the federally funded National Suicide Prevention Lifeline says: “Be non-judgmental. Don’t debate whether suicide is right or wrong . . . Don’t lecture on the value of life.”<sup>17</sup> Whoa! It’s true that a suicide crisis is not a good time for debates or lectures. Yet there is something very odd and off-putting in the phrasing here. This is coming from a suicide-prevention source? And that website is not alone. A booklet on the Samaritans of New York website suggests listening to someone without “expressing personal values” and recognizing that everyone has a “right to commit suicide.”<sup>18</sup>

What is going on here? Partly, I believe, it is doctrinaire emphasis on the “non-directive counseling” advocated by the late Carl Rogers, a deeply

influential American psychologist. Rogers asked: “Does the counselor have the right, professionally or morally, to permit a client seriously to consider psychosis or suicide as a way out, without making a positive effort to prevent these choices? . . . To me it appears that only as the therapist is completely willing that *any* outcome, *any* direction, may be chosen—only then does he realize the vital strength of the capacity and potentiality of the individual for constructive action.” Then he added, “It is as he is willing for death to be the choice, that life is chosen.”<sup>19</sup>

Perhaps this sometimes happens; but I doubt it’s the typical outcome with people who are depressed, desperate, and confused. Rogers seemed to advocate what someone, in another context, called “walking a high-wire in a hard wind.”<sup>20</sup> With no safety net. And one might ask: How can an ethical therapist be “completely willing” that *any* outcome or direction be chosen?

Now, it’s true that listening carefully to someone’s despair and his reasons for suicide assures him that he is being heard and offers him real relief. Dr. John Draper, director of the National Suicide Prevention Lifeline Network, said in an interview that the “incredibly deep ambivalence” of many suicidal people comes out “if you just listen to the reasons for dying and try to understand them.” Then “the reasons for living almost naturally surface for a number of people.”<sup>21</sup>

Yet one can be an excellent listener and still have a point of view that life is good and to be encouraged. (This does seem to be the basic viewpoint of Draper, his network, and the Samaritans, though non-directive dogma seems to get in the way.) A positive outlook can be conveyed both by careful listening, which shows real respect for the person and his life, and by questions about possible solutions of the problems that brought on the crisis. The therapist or other helper thus changes the focus from death and dying to making one’s life better.

As for the reference of the Samaritans of New York to a “right to commit suicide,” there certainly is no constitutional right of this kind in the U.S. Suicide itself is not a crime; after all, the judicial system cannot punish the dead. But helping someone else die by suicide is a crime in most states. Three states—Montana, Oregon, and Washington—now allow doctor-assisted suicide in cases of terminal illness. Yet most states—and possibly all—have a process for involuntary psychiatric commitment of people who are a danger to themselves.<sup>22</sup> Rescue efforts by police, public funding of suicide prevention, and the National Strategy for Suicide Prevention also demonstrate a strong public policy against suicide. Someone who is determined to die by suicide usually can do so, but recognizing that fact is quite different from saying there is a right to suicide. Moreover, if the Samaritans

of New York are suggesting a philosophical right to self-destruction, they may be sabotaging their own earnest efforts to help people.

Some activists want to prevent suicide in general, but make an exception for doctor-assisted suicide in the case of terminal illness. They either favor it outright or are ambivalent about it. The American Association of Suicidology, established over 40 years ago for research and suicide prevention, does much valuable work. Yet in the 1990s, when it might have made a major difference in public policy on assisted suicide, it decided to take no position on it.<sup>23</sup> Elsewhere, much literature on suicide prevention does not even mention assisted suicide; it's the elephant in the room that many people don't want to talk about.

There is not enough space here to make the case against doctor-assisted suicide—or to show that the “slippery slope” is not a theory, but a fact. Suffice it to say that people who have physical pain, whether chronic or terminal, need exactly what people with mental pain need: hope and practical aid. Local crisis centers should make referrals to top specialists in pain control, pain-management centers, and first-rate hospice programs. Helpline volunteers and staff should learn about these subjects in their training programs. And they should know about the best nursing homes in their local areas, especially Eden Alternative homes and others that are deeply committed to patient-centered care.<sup>24</sup>

### **How to Be a Lifesaver**

Some day you may find that a friend, family member, or casual acquaintance is considering suicide. Thinking in advance about the best way to respond will help you be ready if that time comes. This is not to say that you can do the whole job alone. But you can intervene at a crucial point, buy the time that's desperately needed, and recruit others to help. Or you can join a team effort that someone else has started.

I have reservations about some groups' advice on this subject. First, some focus too much on what *not* to say. Most people find it hard enough to deal with a suicidal person at all. Giving them a lot of negative advice may have the effect of freezing them. But positive advice is helpful, and there is much to be said for encouraging the use of intuition and common sense. While I have no professional credentials in this area, I have dealt with some people who were contemplating suicide. Once a casual friend, after sudden financial catastrophe, said he had considered “blowing my brains out.” I winced visibly—an honest reaction—and said that “there's always another way.” Then I made a couple of practical suggestions on the financial side and followed up with other ideas later. I don't know whether he tried any of those

ideas, but do know he appreciated the psychological support. I suspect he received far more important support from others who were closer to him. In any case, he is still in the game. But if everyone he talked to had read beforehand a list of what not to say to him, they might have been afraid to say much at all. Silence, or a weak and mumbled response, can do a lot of damage. Second, there is no “one size fits all” approach. A parent, brother, or sister will have a different approach than a casual friend. If the person in crisis has severe mental illness, helpers may have to call in the professional troops much sooner than if there is “situational depression” because of divorce or financial disaster.

Drawing on sources listed in n. 25 below, as well as my own experience, here is what I suggest:

If a family member or friend seems depressed, tell her you’re concerned that she seems so down, and ask if there is some way you can help. A small child or teenager may mention a problem of bullying at school or elsewhere. A college student may reveal any number of problems. A close friend may be facing domestic violence or financial catastrophe. Just having someone to talk to about the problem can give great relief to those in crisis. And you may be able to assist them directly (a meeting with the school principal, referral to a terrific lawyer or financial counselor, a loan or gift), or take them to someone who can. This sort of help may prevent a suicide crisis from ever arising.

In some cases, though, the person is already there. They may give broad hints about suicidal intent, such as “I don’t see how I can go on” or “Maybe it would be best for everyone if I just disappeared.” There may be other signs: suddenly making a will, buying a gun, or giving away prized possessions. If they give verbal hints, or you see other warning signs, or just have an intuition, you can say, “I’m worried that you might harm yourself because you’re feeling so awful. Are you thinking about that?” If they say yes, it’s best to avoid panic. As the Samaritans of Boston advise, “the person you’re helping feels more out of control than you do and needs you to be calm.”

Many experts suggest asking whether the person has a specific plan for suicide, whether they have the means (a gun or a cache of pills, for example), and whether they have decided on a time. If they have specific plans, or if they seem agitated or deeply depressed, it’s time to call 911. While waiting for the response team, you can assure the person that help is on the way and that “I know things are rough for you right now, but I really think you can get through this and feel much better. I’ll stay with you, and I’ll get others to help, too.” Then go with them and the response team to a hospital emergency room. From there you can notify other friends and family members

to rally around. You can ask one to remove the gun, pills, or other weapon from the person's home, another to do quick research on the best professional help in the area, and others to come to the ER to provide moral support. If you're a friend, you may be able to turn the main responsibility over to a family member when they arrive, yet still play a helpful supporting role.

Let's assume for a moment that there is no suicide plan and no emergency, and you are still talking one-on-one with the troubled person. Listen to them carefully and sympathize with their suffering. Tell them, as psychologist Paul Quinnett advises, that "I'm on your side! We'll get through this." As he suggests, this offers assurance that there is "someone who cares if they live or die." Assuring them that there are others who care deeply might be the next point to make. For example: "I know your Mom and Dad live in another state, but they'd certainly want to know about your troubles and to help in every way they can. Would you like me to call them after we've talked? And should I call your brother?"

Ask what might make them feel a little better. Have they eaten recently? Would they like a bowl of soup, or some coffee or tea? Have they had a good night's sleep lately? If they live alone, perhaps you could invite them to stay with your family for a day or two, catch up on their sleep, and get some good home cooking. Being with friends or family can relieve what may be great loneliness and give them a more hopeful perspective on life.

You might also ask about steps toward solution of any major problem they have mentioned. The section below on "Helping People Build Their Own Solutions" provides many ideas on this. If depression seems to be an overriding problem, they should consult a psychiatrist, psychiatric nurse, or psychologist—or a counselor or social worker who has special competence in dealing with depression and suicide. If you already know of a professional who has dealt with suicide and is very good, by all means recommend that person. If not, you can check with physicians you know and/or the local mental-health agency. Dr. Quinnett offers a helpful "Five Steps to Finding a Good Therapist" in his book, *Suicide: The Forever Decision*; this book is available free online.

If the person initially refuses to see any medical professional, they might be open to seeing a minister, priest, or rabbi. Many clergy can be very helpful; some have special training in this area; and all should be able to refer to medical specialists when they realize that more help is needed.<sup>25</sup>

### **What Role for Drugs?**

Our society has a touching faith in the idea that there is a pill to solve every problem. Certainly, lithium helps many people who suffer from bipolar

disorder or major depression, and antidepressants help many others. But what works for one person does not always work for another, and there are cases where medicine makes the situation worse. When a medication does work for a patient, it's still important to monitor the dosage and keep a close watch on side effects.<sup>26</sup> Also crucial is checking any other drugs the patient is taking, because some drugs may actually cause depression.

Another key point: When older patients need drugs to counter depression or other mental disorders, they may need smaller-than-normal doses.<sup>27</sup>

Still another: An alarming number of people kill themselves by overdosing on prescribed drugs.<sup>28</sup> Anyone who is suicidal should be prescribed only a small amount of a drug at any one time.

One of the best things family members can do is to keep a close eye on apparent effects of drugs and alert the prescribing doctor quickly about any problems. Family members can also help schizophrenic patients who are absolutely convinced—as many are—that they are not ill and do not need meds. Dr. Xavier Amador, a clinical psychologist, explains how to deal with this frustrating problem in *I Am Not Sick, I Don't Need Help!*<sup>29</sup> And Dr. E. Fuller Torrey has advice for dealing with a psychiatrist who fails to treat aggressively the depression of a suicidal patient. Torrey, a psychiatrist and leading schizophrenia expert, urges putting “your advice and admonitions in a registered letter to the psychiatrist, if necessary, adding that you have consulted your lawyer about the case. The psychiatrist will get the message.”<sup>30</sup>

### **Helping People Build Their Own Solutions**

Medicine alone is rarely sufficient for someone who is suicidal. Some may not need it at all, or need it only for a short time. One therapist, worried by antidepressant side effects that his clients have experienced, asks: “Can the medication sometimes simply get in the way?”<sup>31</sup> But nearly everyone inclined toward suicide can benefit from good counseling or “talk therapy”—though, again, many may not need it for a long time.

Several years ago, a study suggested that “cognitive therapy,” which helps the patient deal with negative and suicidal thoughts, can help many.<sup>32</sup> Another very promising approach is Solution-Focused Brief Therapy (SFBT), which has borrowed some techniques from cognitive and other therapies and added many of its own. It is called “brief” because it often takes less time than older approaches. SFBT has not yet received the large-scale, blue-ribbon evaluation that scientists prize, but advocates hope it soon will. In SFBT, a therapist uses skilled questioning to help people build their own solutions and, in some cases, to gather a network of friends who can help them. This approach, pioneered by Steve de Shazer and Insoo Kim Berg,

helps people with many different problems.<sup>33</sup> Two therapists—John Henden in England and Heather Fiske in Canada—have used it to aid many suicidal people and have written excellent guides to it.

In his *Preventing Suicide*, Henden writes that, as a child, he tried many times to suffocate himself under his bed covers “to escape severe and enduring emotional abuse and neglect.” One of his cousins died by suicide, and Henden himself considered suicide again in the 1990s. His own experience has given him great empathy and insight. It also has convinced him that “it is normal for people in extreme and/or abnormal situations to have thoughts and feelings about suicide.”<sup>34</sup> When clients say they are thinking of it, he acknowledges that it’s an option, but then diverts them to thoughts about other options.

Henden notes that pioneers of the solution-focused approach found that their clients made faster progress “by talking more about their hopes for the future and their strengths, rather than describing their problem-peppered past.” SFBT therapists, though, do not ignore the suffering of their clients. They listen carefully and show that they understand the pain—but then move toward thoughts about solutions. Their approach, Henden says, assumes that “generally people are competent at finding solutions to most of what life throws at them.” They do have, after all, expertise about their own lives. So the therapist “draws on the client’s expertise and then, as the work progresses, the client designs their own solution.”<sup>35</sup>

Henden stresses the importance of “very, very small steps” forward. “People who are deeply depressed and suicidal,” he cautions, “regard anything as involving a huge effort.” Questions that encourage tiny steps are often hopeful “presuppositions”—that is, they “presume something without stating it directly.” The basic presupposition is that the person *will have a future*, as in: “When you’ve cracked this really low patch, how will your life be different?” There are also questions that help the client remember past successes, for example: “When you have been up against it before in life, how did you get through it on that/those occasion/s?”<sup>36</sup>

Heather Fiske, a Canadian psychologist, also has a mother lode of good questions. Her book, *Hope in Action*, includes many success stories. Like Henden and other SFBT therapists, she uses the “miracle question.” They ask clients to imagine that after they go to sleep on a given night, a miracle happens so that their worst problems are gone. After waking, how do they find that things have changed? What do they notice first? Fiske comments, “When clients are so trapped in a view of their problems as interminable, intolerable, and inescapable that suicide seems like the only answer, it can take the idea of a miracle to break them out.”<sup>37</sup> Clients tend to find the

question intriguing, and they start thinking about the possibility of a better future. Responding to more questions, they usually reveal what they want out of life, some ideas of how they might make progress, and friends or family members who might help.

Fiske has decades of experience and knows how to work with people where they are. Joe, a 14-year-old who had tried to jump off a bridge when drunk, initially was hard to work with—rude, sarcastic, and resistant to treatment. “Not a Model Citizen,” Fiske says wryly. But when she asked, “What were you hoping to get out of coming here today?” he replied that “I was hoping to get people off my back.” Fiske took it from there. She formed an alliance with Joe’s mother (the main person on his back), who arranged a meeting over coffee with his best friends. They agreed to watch Joe’s drinking, and they kept their word. Joe began to realize he could get people off his back by changing his behavior. He reduced his drinking, and his thoughts of suicide began to fade. Although he dropped out of regular school, he completed an alternative high-school program and was able to hold a job. In her last conversation with Joe’s mother, Fiske writes, “she told me that he had gone to Western Canada to stay with an uncle and learn welding.”<sup>38</sup>

Fiske also writes about a 67-year-old man, widowed a year earlier, in pain from rheumatoid arthritis, despondent, and suicidal. When he said that he spent most of the previous week in bed, a therapist focused on the exceptions: “What was different about the days when you somehow managed to get up?” And he responded, “That only happened when I had to babysit my grandchildren.” That babysitting, Fiske suggests, probably gives him “a reason for living.” She provides a list of follow-up questions that can be asked in such a case: how he’s able to get himself out of bed, how his babysitting makes a difference for his grandchildren and their parents, what his wife would have said about his taking care of the grandchildren, what his hopes are for those grandchildren, and more.<sup>39</sup>

Solution-focused therapists have an impressive bag of tricks to outfox the Grim Reaper. John Henden likes the “wise old you” question: “Just imagine you are much older and wiser than you are now, say 70 or 80 (or if a teenager, 25 or 26!). What advice would you give to you now about how best to get through this difficult time/sort things out for yourself/get more control over the situation?” He says that clients often respond “with a full and vivid description” of advice from their older, future selves.<sup>40</sup>

There is also the much starker graveside question, which actually is a series of questions. The therapist asks the client to imagine having taken the “last resort option” (suicide) and being in a grave while “your spirit is hovering 3 metres above” and “looking down on the assembled crowd below.”

The therapist asks who is in that crowd, “Who is most upset?” and “What advice would they have liked to have given you before you took the ‘last resort’ option?” Henden says this line of questioning “has saved many lives.”<sup>41</sup>

He starts another thought-provoking set of questions by asking clients to imagine a time decades in the future, when they have overcome current problems and have gone on “to live a full and rewarding life. You are on your deathbed, looking back. What would your life have been like? . . . What people would you have known and met? What new places might you have visited? What sorts of holidays would you have had? . . . Where might you have seen the best sunrises and sunsets?”<sup>42</sup>

Henden and Fiske, great yea-sayers to life, have much to offer other professionals, helpline volunteers, family members, and friends. They show us how to help people make their lives better and happier, richer and fuller, instead of throwing them away.

## NOTES

*Special thanks to Rachel M. MacNair, Ph.D., psychology expert and author, for reviewing and commenting on a late draft of this article.*

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# To Be or Not to Be?

Stephen Vincent

That is the question Dr. Peter Singer asks. The noble, tortured, Hamlet-like soul faces the crisis of life and questions his own . . . No, wait: That's the wrong script. The truth is that this coddled, tenured Princeton professor looks over the ivy walls and sees—shocking!—human ignorance and suffering, and within the safe confines of the *New York Times* opinion pages puts humanity on the scales and wonders if it is nobler in the mind for the current crop of human specimens to prevent the next generation from coming into existence by refusing to procreate. For the next generation's good, of course.

By this little exercise of so-called philosophical reflection, Singer has brought the old lifeboat morality play to a new level of self-serving absurdity. Women and children first—nah! Don't worry if the lifeboat is full and the *Titanic* sinks and you hear the tortured cries of drowning babies. Just take comfort in knowing that Singer made it safely and if the drowning thousands' parents had had half his philosopher's mind they wouldn't be suffering right now. They would not have been born!

As Whittaker Chambers said in another context, “At some point, you hear the screams.”

Dr. Singer makes his modest proposal (“Should This Be the Last Generation?”) in an online *New York Times* column called “The Stone,” as in the Philosopher's Stone (June 6, 2010). To its credit, the “paper of record” offers the column for professional philosophers to expound on and explain their particular discipline and their views on some of the age-old problems of our race, as well as some of the new ones. Indeed, in our day, formal philosophy has become too much of a rarefied exercise so that “philosophy” is equated with “impractical” or “egghead.” Unfortunately, Dr. Singer uses the *Times* forum to play the most absurd of mind games that is guaranteed to be misunderstood and set the common person's teeth against the “eggheads.” Given his track record—saying that some highly evolved animals have more value than the average newborn human, for example—it's the kind of thing he thinks philosophers should do.

“How good does life have to be, to make it reasonable to bring a child into the world?” the philosopher asks. To cite the most extreme argument against procreation, Singer summarizes what he calls “a fine book” by David Benatar called *Better Never to Have Been: The Harm of Coming into Existence*.

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Stephen Vincent writes from Wallingford, Conn.

Although Singer weakly rejects Benatar's view, he treats the theme with great sympathy and seriousness. The book addresses what Singer calls the "asymmetry" of calculating the harms and benefits of procreation. We all know that bringing a new life into the world will expose that person to all sorts of suffering and frustration of desires, the argument goes. Is there any possible good in life that this person could enjoy that could outweigh the harms that we know he will suffer?

This sort of reasoning exemplifies the sad state of philosophy today. No wonder our kids come off the campuses so confused.

Indeed, what Singer displays in the NYT column is not philosophy but rather the antithesis of philosophy. Rethinking a discipline that should concern itself with the good of mankind and his true nature, he proceeds in 1,000 words to obliterate more than 2,000 years of human effort. Rather than seeking meaning, he says that there may be no such thing as meaning at all. Instead of defining the good, he offers little hope of man ever finding it. This in itself is not new to modern philosophy—it's the very definition of a special form of nihilism. But whereas most nihilists conclude that life is pointless and it takes a special form of bravery to live it, or to end it, Singer projects his nihilism on the generation not yet born.

Singer is Sartre writ larger than even the latter would go. He makes the dolorous Frenchman's "No Exit" and "hell is other people" sound like last gasps of hope. We do have an exit, Singer says, it's so simple yet unthinkable that few have been brave enough to think the issue through to its true conclusion. We refuse to procreate! We end mankind not by nuclear holocaust, or global warming, or cruelty of any kind. We just refuse to do it. Like a race of self-sterilized Bartlebys, we just "prefer not" to have children.

**O Brave New World, with no people in it!**

But let me be fair. It is very easy to misread Dr. Singer. In fact, he has made an academic career out of being misread, misunderstood, and misconstrued. After a whole lot of *Times* readers apparently failed to follow the meaning of his column, he was quick to respond with his usual "It would have been good if some of those commenting had read the piece with a little more care, and all the way through." He then proceeds to slice and dice the "two common misunderstandings of what I was trying to do." You see, he says more than once, just because I assert or defend or quote sympathetically certain ideas and authors, it doesn't necessarily mean that I agree with them. After all, "Philosophers frequently set out views that are opposed to their own and seek to present them in their strongest possible form." And so on. He could have written his author's response without even reading the

complaints. One marvels that Singer does not tire of his own rhetoric, and a lifetime spent telling lesser minds, “That is not what I meant at all. That is not it at all.” T. S. Eliot marked this kind of response as a sign of cultural decadence—the loss of a common language—if that’s all people wind up saying to one another.

A few *Times* commenters are worth quoting. One in Portland, Oregon, wrote, “Maybe most normal people enjoy their lives to a greater extent than the typical philosopher does. . . . I don’t know about you, but I’m glad I’m here.” He goes on to tell the joy of having his 5-year-old daughter get out of bed each morning and crawl on his lap. Another, in Madison, wrote, “Life is much more about walking your spiritual path than it is about having ‘fun.’ Many lives with marked pain and suffering have been deeply meaningful for those living them.” Then there’s Kathleen in Mill Valley, Calif., who came up with this paraphrase: “It is better to have lived and loved than to never have lived at all. . . . Living—under most any circumstance—is in itself a worthwhile state.”

Although a fair number of commenters agreed with Singer on some point or another, it was heartening to see the strong pushback to the notion that life may not be worth living—for the next generation. It was encouraging to read the assertion that living “is in itself a worthwhile state.”

### **Enter the Albigensians**

Singer fancies himself pushing the envelope of human thought, yet so much of what he writes is not only not new; it has actually been tried and found wanting.

Some may remember the Albigensians, the rebellious religious predecessors (excuse the pun) of the Shakers, who said that the pure human spirit was imprisoned in the evil material flesh. To them, suicide was a liberation of the spirit, marriage was forbidden, and abstinence was a virtue for everyone, even to the point of not procreating at all. These 13th-century rebels of southern France were opposed mightily by the new Order of Preachers, a band of celibate men led by St. Dominic—which is not as ironic as it may sound. The celibates for the sake of the kingdom of God were the natural opponents of those who were celibate for their own sake, who sought to avoid suffering and passing on the “evil seed” of the flesh.

Indeed, as much as the Catholic Church has esteemed and extolled the virtue of celibacy and perpetual sexual abstinence, it has never sought to place the obligation upon anything approaching a better part of the population. “Be fruitful and multiply” has been the guiding command of the Church and the Judeo-Christian tradition over four or more millennia, and it has

been unsurprising how little effort has been needed to ensure adherence to these simple words of Genesis.

The Albigenian strain has long been with us, going back to the pre-Christian Gnostics, and passing through the Manichees of St. Augustine's age. The root of the mindset, and the social movements it spawns, is a dualism that posits a good force and an evil force in the universe that are always opposed. The good is usually identified with pure spirit, the part of man that can think and reason. The evil is laid in the material world of the flesh and everything that would drag man down to earth. The battle of stuff and spirit can be seen even in the creation myths of the Near East—Gilgamesh and the like—and it has been a staple of Western philosophy going back to the very ancient Greeks—the problem of the One and the Many. The tension of good and evil that is found within each human heart, and in the tides of nature (a beautiful sunrise followed by a destructive tsunami) has been the source of much philosophical reasoning and religious sentiment. How does man deal with so many forces within and without that seem beyond his control? What about the problem of pain? There is plenty of opportunity for negativism and despair, and certainly Singer is not the first to wonder if continuing life on earth is worth it.

What makes Singer and his ilk unique is that they move from the tragedy of human suffering to the general judgment that some lives are not worth living. True dualists, they usually determine that humans without higher powers of reason, without that pure spirit of intellect (infants and incompetents, to start with) should be the first to go into that dark night. As utilitarians, they manage to justify their hierarchy of being by saying that some must be left to die for the greater good of all living beings. Somehow, they themselves are always left alive.

If it were just a matter of a few philosophers flattering one another with their extreme theories over a couple of beers in the faculty lounge, we could safely ignore them. But a form of dualistic utilitarianism has taken hold of much of Western culture over the past 50 years and threatens the narrative that has guided the Western mind for millennia.

The opening words of our cultural story are found in Genesis: “In the beginning, God created the heavens and the earth.”

Throughout the creation narrative, there is only one force, one person at work, and he creates all things at his own word and in his own image, not in opposition to any other force. The world is a creation of a good God who sees all things as good. There is one God in whom all the universe rests, and into whose hands all things, even mankind, will return. Here is an answer to the dualism of every age, a solution to the One and the Many—it is the One

who created the many. At the crown of creation is mankind (man and woman), who has a divinely ordained place, purpose, and power.

In this Biblical view, the dualism of man's heart comes from within himself, in sin and disobedience, which leads to the disharmony in nature as well. The struggle of matter and spirit begins in Eden and Original Sin—but it was not thus from the beginning. That is the message of Genesis—in the beginning there was One, harmony, omnipotence, and peace. This is a hugely revolutionary concept that has been the foundation of Western civilization, of a basic hopefulness and positive attitude toward man and nature. No doubt, the age-old struggles go on, as St. Paul points out: “The desires of the flesh are against the Spirit, and the desires of the Spirit are against the flesh” (Galatians 5:17). But the struggle is not an ultimate one, not a foundational fight at the heart of all creation. Man's struggle is conditional, and it will have a good resolution and a peaceful end if an individual offers his struggle to the One who commands the heavens and the earth.

There is much more, of course, that could be said. The point is that, to a great extent, Western culture has lost touch with the Genesis story. Although the first three chapters of the Bible have been discredited as a scientific account of the origins of the world, they still have an important message about the worth and dignity of man, and his unique position among all created things. But much of the post-Christian world thinks Genesis has nothing to say to modern man, and they search for another explanatory story.

Whatever truth there is to the theory of global warming, I think what has elevated the issue to a form of religion for many is that it brings back man's aboriginal fear of annihilation by nature, the snuffing out of the pure spirit of man by the dumb matter of the world. The answer is “smarter energy” and building “a smarter planet,” two popular advertising lines that cleverly merge mind and matter, the attributes of man and those of nature. This mindset expresses a somewhat hopeful harmony between spirit and nature, a truce between the perpetually warring forces. Yet another, more gloomy set of global-warming apostles say that it is better to surrender, that the spirit must cede the planet to nature. We have polluted the world and must pay the price of self-extinction as nature seeks to heal itself. In this case, apparently, the roles are reversed from classical dualism: It is the evil spirit that must be expelled from the good matter for peace on earth to be found.

### **Should We Live?**

It is within this latter mindset that the question “Should this be the last generation?” would even begin to make sense.

But let's give Dr. Singer his due. He raises an age-old question and concludes

with more hope than his critics give him credit for. He writes: “I do think it would be wrong to choose the non-sentient universe (by refusing to procreate). In my judgment, for most people, life is worth living. Even if that is not yet the case, I am enough of an optimist to believe that, should humans survive for another century or two, we will learn from our past mistakes and bring about a world in which there is far less suffering than there is now.”

Let’s give him credit for that much hope, faint and conditional as it may be. True, in a century or two, if he lives that long, he may change his assessment and conclude that life for most people is not worth living, but for now he’s content to let mankind tinker along and find better ways to alleviate suffering.

But Singer’s question still poses a challenge for us who have a larger hope and a belief in the intrinsic value and dignity of each human life. Do we realize how precarious a position we are in as we try to pass on these beliefs to our children? It may well be that the next few generations will determine whether or not the Genesis story is passed along in human memory and valued as a triumph of the One God over the darkness that cannot overcome him. This may be high noon in the struggle between the Culture of Life and the culture of death, and we really must position ourselves on the frontlines. Yet we don’t need to enter the public culture wars to have a say. As parents and grandparents, as members of families, we can have an enormous effect on the direction of our culture, and civilization itself.

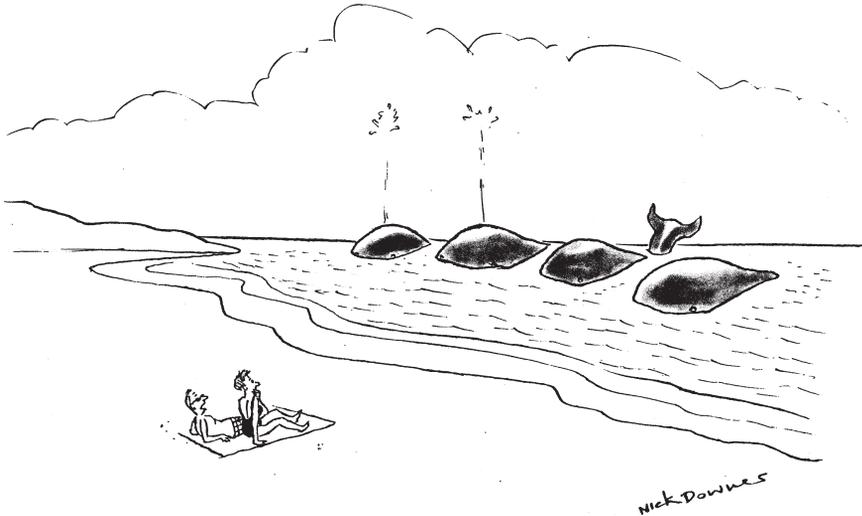
Here is how the ancient Israelites were instructed to change history and bring the world under God’s rule: “And these words which I command you this day shall be upon your heart; and you shall teach them diligently to your children, and shall talk of them when you sit in your house, and when you walk by the way, and when you lie down, and when you rise” (Deuteronomy 6:6-7).

We can do no less. This is a duty that no one else can perform for us. It is a sign of our dignity, to pass on the truth, for God trusts us with the truth.

Dr. Singer may say he’s just raising questions as philosophers do and drawing people into the discipline of thought. Good for him. But what gives his words greater weight is that we have now the technological means to carry out something like universal sterilization. Even if some would refuse to “get with the program” to render themselves sterile, it is possible that others in power could force them. Pope Paul VI warned about this in his 1968 encyclical *Humanae Vitae*, which sought to reverse the contraceptive and anti-birth mindsets that were then settling across the West. The pope said that acceptance of widespread voluntary birth control could lead governments to forcibly regulate the number of births. China today, and its one-child policy, is a prime example of this danger, along with the birth-regulation mandates

that often come with foreign aid to poorer countries.

The threat is real because the technology and the power to impose it are real. Dr. Singer has done us a sort of service by suggesting that the unthinkable is thinkable, and to some quite reasonable. We who value life on a higher level than the utilitarian approach really need to have answers. What is good about life? Why do we choose to have babies? Should this be the last generation? Do we have enough hope to carry on? Should I be the last of my line? The future depends on the answers we pass along to our children.



*"Aren't we supposed to be watching them?"*

# The ABCs of an International Right to Abortion

William L. Saunders Jr.

## Introduction

Abortion advocates often claim there is an “international right to abortion.”<sup>1</sup> If there were such a thing as an “international right to abortion,” how would we know it? There is, after all, no “world government,” no global legislative authority, that could impose a “global right.” Even the United Nations (U.N.) is simply an organization comprising sovereign nations that retain and guard their sovereignty.<sup>2</sup>

Yet there is such a thing as “international law.” It has two sources.

The first, treaties, are written documents between two or more nations. Treaties have precise terms. Like contracts between individuals, they bind those who sign them. The second kind of source, customary international law, is not written; rather, it is a “custom” among nations, a way of behaving or interacting that becomes fixed over time into a pattern all nations follow.<sup>3</sup> Therefore its unwritten “terms” must be determined through an examination of various sources, and there is much controversy over what is good *evidence* of custom.

There are supra-national courts, for example the European Court of Human Rights (ECHR), which render decisions with international consequences. These courts may interpret language in treaties or “find” whether customary international law exists on a particular subject.

This paper will examine the various sources of international law to see if they contain a “right” to abortion. The first section will look at the premier human-rights document, the Universal Declaration of Human Rights (hereafter, the “Declaration”), as well as the International Covenant on Civil and Political Rights (hereafter, “Covenant”), a treaty which implements the Declaration, to see if they contain a right to abortion. The second section will examine evidence of “customary international law” in search of a “right” to abortion. The third section will outline the case (in which the author is a consultant) that was heard in December 2009 by the ECHR, *ABC v. Ireland*, in which plaintiffs argue an international right to abortion exists that trumps Ireland’s constitutional protection of the unborn.

## Universal Declaration of Human Rights and Treaties

Adopted by the United Nations General Assembly in 1948, the Declaration is the “grand-daddy” of all human-rights documents. Though not *binding law*

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William L. Saunders, Jr. is senior vice president of Americans United for Life. This is the text of an address he gave at a conference titled “Looking Back, Looking Forward: Pro-life Strategy & Jurisprudence for the 21st Century” at Columbia University Law School, April 9, 2010.

itself,<sup>4</sup> the Declaration is widely regarded as the source, in the modern understanding, of human rights.<sup>5</sup>

The Preamble describes the Declaration as “a common standard of achievement for all peoples and nations” and states that “the peoples of the United Nations have . . . reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women.”<sup>6</sup>

The second article stresses further that these rights and freedoms belong to “everyone,” without discrimination, by virtue of being a human being: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind.”<sup>7</sup>

In the third article, we find the first of the “rights” belonging to everyone, “Everyone has the right to life.”<sup>8</sup> The right to life is the foundation of all other human rights.

Though the Declaration states the understanding of the international community regarding human rights, it does not create legal obligations binding upon nations. Thus, while the Declaration is extremely *persuasive*, it is not itself international *law*. Consequently, a system of treaties was devised to put *into legal obligation* the principles of the Declaration.<sup>9</sup> One such treaty, the Covenant,<sup>10</sup> echoes and enforces the right to life of the Declaration. The Covenant proclaims, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”<sup>11</sup>

Notably, the Covenant articulates the right as applying to every “human being.” Human being is a scientific term, not a legal term of art. Unlike the word “person” that, through judicial interpretation in the United States, has left the unborn outside a sphere of protection, “human being” is a scientific term for a living human organism.

Thus, whatever else may be said about abortion proponents’ claim that treaties create a right to abortion, the basic human-rights documents are, if anything, *against* abortion; they certainly do not create a right *for* abortion.

### Customary International Law and a “Right” to Abortion

Before examining the argument that customary international law contains a right to abortion, it is important to understand the distinction between *customary law* and *evidence* of customary law. Customary international law is the custom of nations that, over time, gains the consent of all the nations of the world.<sup>12</sup> Since customary law is not written, we have to look for *evidence* of it.

In the United States, for example, the Supreme Court in *Sosa v. Alvarez-Machain* stated:

Where there is no treaty, and no controlling executive or legislative act or judicial

decision, resort must be had to the customs and usages of civilized nations; and, as evidence of these, to the works of jurists and commentators, who by years of labor, research and experience, have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is.<sup>13</sup>

The Court prefaced its definition with a reminder that though these are “long” recognized sources of evidence, they have always been “cautiously” recognized.<sup>14</sup>

Abortion-as-a-right advocates attempt to squeeze terms such as “reproductive health” and “reproductive rights” into U.N. documents in order to subsequently draw out a “right” to *abortion* under customary law.

An illustrative example comes from the 2008 report by Paul Hunt, a special rapporteur to the U.N. on the right to health. He wrote:

[A] State has a core obligation to ensure a minimum “basket” of health-related services and facilities, including essential food to ensure freedom from hunger, basic sanitation and adequate water, essential medicines, immunization against the community’s major infectious diseases, and sexual and reproductive health services including information, family planning, prenatal and post-natal services, and emergency obstetric care.<sup>15</sup>

Such language may seem innocuous, but through the term “reproductive health services,” Hunt is attempting to place abortion in the “basket” of basic health services. Such language will later be cited by pro-abortion advocates (see below) as evidence of an existing international right to abortion.

Additional “evidence” is claimed to come from statements of U.N. committees. Each “human rights” treaty contains provisions for the election of a committee to make advisory recommendations about the treaty. By the very terms of the treaties, committee recommendations are meant to be purely advisory; the committees are not empowered to make binding interpretations of what those terms mean.<sup>16</sup> Though the committees have no enforcement capability, their views are increasingly used by sympathetic jurists, government officials, and activists to pressure governments to change laws and policies.

For example, the U.N. committee charged with offering guidance on the obligations incumbent upon nations that have ratified the Convention on the Elimination of All Forms of Discrimination Against Women (“CEDAW”) is advancing a pro-abortion agenda.<sup>17</sup> One typical example comes from a CEDAW committee report on Croatia. Despite the fact that CEDAW does not contain the word “abortion” or an equivalent, the committee claimed, “The refusal, by some hospitals [in Croatia], to provide abortions on the basis of conscientious objection of doctors [constitutes] an infringement of women’s reproductive rights.”<sup>18</sup>

In addition to committee comments and rapporteur's reports, conference statements (or "outcome documents") which are negotiated at, and issued after, every U.N. meeting, even regional meetings, are a third source cited by pro-abortion lawyers as evidence of customary international law. The statement issued after the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt, convened by the United Nations, is the prime example. Pro-abortion forces had hoped to establish—to have nations endorse—an international right to abortion. However, this direct tactic failed. Many nations made clear that they did not recognize such a "right."<sup>19</sup>

Thus, abortion proponents came up with the novel argument that a right to abortion had "evolved" over time since Cairo, through repetition of some of the language used in the Cairo document. In particular, they focused on the following:

Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. In line with the above definition of reproductive health, reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well-being through preventing and solving reproductive health problems. It also includes sexual health, the purpose of which is the enhancement of life and personal relations, and not merely counseling and care related to reproduction and sexually transmitted diseases.<sup>20</sup>

However, this novel strategy—building up a body of repetitions of quasi-official U.N. statements using language such as that from the Cairo declaration *as evidence of a new customary-law right to abortion*—was resisted at various international meetings and really came apart with the election of President George W. Bush and his replacement of pro-abortion U.S. delegates at international meetings. At the U.N. Special Session on Children in 2001/02, a colloquy among delegates negotiating the final statement elicited an admission on this point:

In a June 2001 preparatory meeting for the United Nations General Assembly Special Session on Children, the U.S. delegate asked Andras Vamos-Goldman, Counsellor (Political Affairs) from the permanent Canadian mission, what was meant by the phrase "equal access to services . . . including sexual and reproductive health

care,” to which the Canadian delegate replied, “of course—and I hate to use the word—but in ‘services’ is included abortion.”<sup>21</sup>

In other words, delegates would not affirm language that was meant to include abortion.

The United States then appended an “explanatory statement” when it agreed to the Outcome Document:

Concerning references in the document to UN conferences and summits and their five year reviews, the United States does not understand any endorsement of these conferences to be interpreted as promoting abortion.

The United States understands the terms “basic social services, such as education, nutrition, health care, including sexual and reproductive health,” “health care,” “quality health care services,” “reproductive health care,” “family planning,” “sexual health,” “reproductive health,” “safe motherhood,” in the documents to in no way include abortion or abortion-related services or the use of abortifacients.”<sup>22</sup>

Since evidence of custom requires unanimity among the nations (after all, it is supposed to be a *custom* that they follow), these developments at the Children’s Summit demonstrate that no right to abortion has developed or evolved since Cairo.<sup>23</sup>

The strategy of the abortion lobby was exposed in 2003 by Congressman Chris Smith (R-N.J.), who placed into the Congressional Record documents from the Center for Reproductive Rights outlining their strategy,<sup>24</sup> as detailed by their International Legal Program Summary of Strategic Planning:

The ILP’s overarching goal is to ensure that governments worldwide guarantee reproductive rights out of an understanding that they are legally bound to do so.

And, since pro-abortion advocates know it is unlikely that a treaty expressly guaranteeing abortion expressly ever be signed by nations that prohibit abortion:

The other principal option is to develop “soft norms” or jurisprudence (decisions or interpretations) to guide states’ compliance with binding norms.

The memo goes on to explain what is meant by “soft norms”:

These norms result from interpretations of human rights treaty committees, rulings of international tribunals, resolutions of inter-governmental political bodies, *agreed conclusions in international conferences* and reports of special rapporteurs. (Sources of soft norms include the European Court of Human Rights, the CEDAW Committee, provisions from the Platform for Action of the Beijing Fourth World Conference on Women, and reports from the Special Rapporteur on the Right to Health.)<sup>25</sup>

The three things I have been discussing—statements of Special Rapporteurs, conference statements, and committee comments—are, thus, all “soft norms.” Consonant with this strategy of arguing that soft norms have given rise to an

abortion right, the CRR in 2001 filed suit against President Bush.<sup>26</sup> They asserted:

Customary international law is embodied, *inter alia*, in treaties (even if not ratified by the United States), the writings of international law jurists, and documents produced by United Nations international conferences. The *Restatement Third of the Foreign Relations Law of the United States* (American Law Institute 1987) defines customary international law as resulting “from a general and consistent practice of states followed by them from a sense of legal obligation.”

And further:

Customary international law also pre-empts inconsistent state statutes and policies. Thus, by working to establish the right to abortion as a human right in customary international law, CRLP fulfills its mission of protecting women’s access to abortion from interference or prohibition by the States.

Simply put, the goal of abortion advocates, such as CRR, is to include abortion under the guise of “reproductive health” in “international law.” While they were stymied in the Doha Declaration and at the Children’s Summit, they continue to press the argument elsewhere, and have even won a few victories,<sup>27</sup> though less as established law than as an “emerging consensus,” as will be shown below.

#### **The ABC Argument for an International Right to Abortion**

In early December 2009, the author was in Strasbourg, France, consulting on a case before the European Court of Human Rights (ECHR), *ABC v. Ireland*. Plaintiffs in the case are three anonymous women (referred to as “A,” “B,” and “C”) who challenge Ireland’s protection of the unborn. They claim the law, which permits abortion only to save the life of the mother, jeopardized their “health and well-being” because they were required to travel abroad for abortions.

The European Court of Human Rights (ECHR) is the human-rights court of the Council of Europe, which has 47 members, including nations beyond Europe proper, such as Armenia. The decision of the Court will affect policy for all of the Council, and the outcome may be influential in American courts, which have increasingly looked to what other countries are doing when interpreting our own Constitution.<sup>28</sup> If the ECHR were to recognize abortion as a regional right, it would be used by abortion advocates as evidence that abortion is an international right. (See CRR’s argument above.)

The ECHR interprets the European Convention on Human Rights (the Convention).<sup>29</sup> Plaintiffs have asked the court to find a “right to abortion” in the Convention, and claim that the “right” would trump the right to life guaranteed in Ireland’s Constitution. However, like the Declaration and the

Covenant, the Convention appears to be, if anything, *pro-life*. Article 2 contains an express right to life:

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
  - (a) in defence of any person from unlawful violence;
  - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

With such an explicit right to life, how can anyone claim this document creates a right to abortion?

The plaintiffs' argument is that the "right" to abortion, though not explicit, is implied by other articles of the Convention. Plaintiffs rely primarily on Article 3's prohibition of torture<sup>30</sup> and Article 8's guarantee of privacy for their argument.<sup>31</sup> Essentially, they contend that when these provisions are read together, they grant a right to abortion that is supreme.

However, besides distorting the meaning of articles in the Convention, their argument ignores ECHR case precedent. In *Vo v. France*, the ECHR found: "The issue of when the right to life begins comes within the margin of appreciation which the Court generally considers that States should enjoy in this sphere."<sup>32</sup> The principle of the margin of appreciation respects that member states are *sovereign* nations. The Council is not a government that gives out authority. It is created by these sovereign nations that have delegated to it *some* authority. That means that states are free, under the Convention, to deal with abortion as they see fit.

Through several national referenda, the people of the Republic of Ireland declined to create a right to abortion and voted for the measure that protects the right to life of its unborn members, now Section 40.3.3 of their Constitution.<sup>33</sup> Notably, Ireland is not the only country that protects the unborn. Poland and Malta also have strong protections.

Nevertheless, plaintiffs in the *ABC* case argue that there is an international "consensus" to the contrary, and that such a consensus is binding on Ireland:

A strong international consensus can demonstrate that a less burdensome alternative is available and preferred throughout the member States. . . . The State fails to address the fact that Ireland's abortion laws are completely incongruous with the European consensus and international standards on lawful abortion to protect women's health and well-being.<sup>34</sup>

However, the plaintiffs' use of the word "consensus" is misleading. As noted, two other European countries, Poland and Malta, are pro-life; thus there is hardly an "international," much less European, pro-abortion consensus. Moreover, a member state is not legally bound by a "consensus." The only way a state is bound is if there is a *legal standard* that binds it. Whether there is or is not a consensus, or whether a majority of other member states legislate one way or another, is irrelevant. Rather, the proper question for the Court is whether there is a legal standard *binding* on Ireland.

In the absence of such a binding legal standard, plaintiffs ask the ECHR to expand the decision in a 2007 case, *Tysiacy v. Poland*,<sup>35</sup> to create one. While the Court there found that Poland had violated Article 8 of the Convention in the case of Alicia Tysiacy, who was not given a "health" exception for an abortion, a proper understanding of the holding in the *Tysiacy* case would actually require that the Court rule *against* the plaintiffs in *ABC v. Ireland*.

The Court in *Tysiacy* held that Poland had not followed its *own* standards regarding its "health" exception for abortion: "In this context, the Court observes that the applicable Polish law, the 1993 Act, while it prohibits abortion, provides for certain exceptions. . . . Hence, it is not the Court's task in the present case to examine whether the Convention guarantees a right to have an abortion."<sup>36</sup>

Thus, according to the Court, even though *Tysiacy* touched on abortion, the case was not about whether there was a right to abortion under the Convention. Rather, the Court's sole concern was whether Poland followed Poland's existing abortion law in the particular case. Abortion remains in the margin of appreciation.

Under precedent from *Vo* and *Tysiacy*, *ABC v. Ireland* should be an open and shut win for the Irish government. One would think that the Court would not even entertain oral arguments in the *ABC* case, because it has to do with a sovereign state's constitutional provisions on a subject on which it is permitted to do as it wishes under legal precedent from the European Court of Human Rights.

Further, the case does not meet the basic procedural conditions of admissibility under the Convention. Cases can be brought to the Court only after domestic remedies have been exhausted. Article 35 §1 requires that plaintiffs *must* first take their case through the courts of the country concerned, through the highest possible level of jurisdiction.<sup>37</sup> This respects the sovereignty of nations, ensuring that a state has the first opportunity to rule on and perhaps provide redress for the alleged violation. In *ABC v. Ireland*, there is no judgment of the Irish Courts for the ECHR to review because the plain-

tiffs never sought such redress.

A 2006 ECHR case, *D. v. Ireland*, is directly on point. The case involved an Irish woman who, not being allowed to get an abortion in her home country, traveled to Britain in order to legally abort. She sued the government of Ireland before the ECHR, citing several articles of the Convention in her complaint, including Articles 3 and 8. On July 5, 2006, the Court declared the case inadmissible “on the ground that the applicant had not exhausted domestic remedies, in that she failed to bring an action before the Irish courts.”

Thus, for the Court to hear oral arguments on the merits of the *ABC* case, as it did in December 2010, is astonishing. The astonishment is compounded when one considers that the case, in another extraordinary move, was referred to the Grand Chamber (i.e., *all* of the judges) before a general chamber had reviewed it or had issued a ruling. These are troubling signs that the Court may create a “right” to abortion that trumps a European state’s own constitution. As noted, such a “regional” right to abortion would contribute to the broader argument that there is a customary international right to abortion that is developing.<sup>38</sup>

Should the Court impinge on the sovereignty of Ireland, how will Ireland respond? It is not inconceivable that Ireland could denounce a pro-abortion decision and the Court, perhaps even withdrawing from the Council. An ECHR decision in November 2009, *Lautsi v. Italy*,<sup>39</sup> prohibiting Italian classrooms from displaying a crucifix, has caused unrest and protests throughout Italy. Another overreaching opinion could be the demise of the ECHR. That would be an ironic end to a project begun to ensure peace and human rights, and to unite Europe.

## Conclusion

Though *ABC v. Ireland* is simply one case, in one country, involving only three plaintiffs, it nevertheless has far-reaching implications, both for Ireland and for the greater international community. Supra-national governing bodies are a product of a 20th-century desire for international cooperation. These institutions, such as the U.N. and the European Union, are meant to prevent a small but powerful tyranny from trampling upon inviolable human rights. *ABC v. Ireland* could represent a departure from this model by allowing a small number of pro-abortion activists to define what customary international law is on the issue of abortion.

What are the implications for the United States, a nation that prides itself on its written, stable constitution? For over 200 years, fidelity to the Constitution has allowed the country to grow and prosper and the U.S. has been reluctant to cede power to supra-national organizations. However, given the

United States Supreme Court's control over abortion and its increasing reliance on international law, if abortion is considered a customary international right, this issue could not only be taken completely out of the hands of the American people, but even out of the realm of American jurisprudence.

The court's ruling in *ABC v. Ireland*, then, is not one to be overlooked or downplayed. Pro-life citizens must guard carefully their national institutions to prevent pro-abortion code words from turning the "consensus" of the few into the custom binding all.

## NOTES

1. See Veronica Undurraga & Rebecca J. Cook, *Constitutional Incorporation of International and Comparative Human Rights Law: The Colombian Constitutional Court Decision C-355/2006*, in *CONSTITUTING EQUALITY, GENDER EQUALITY AND COMPARATIVE CONSTITUTIONAL LAW* 10, 215-247 at 243 (Susan H. Williams ed., 2009). "International human rights law has given broader recognition for gender-specific needs and rights of women than most domestic . . . legal systems. This is one reason why women's advocates resort to international law to legitimize their demands."
2. The U.N. Charter states, "Nothing contained [herein] shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require Members to submit such matters to settlement under the present Charter." United Nations Charter, Article 2, Para. 7. Further, a 1960 General Assembly Resolution states that "All peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory." U.N. General Assembly Resolution 1514 (XV), December 14, 1960. See Robert John Araujo, "Sovereignty, Human Rights and Self-Determination: The Meaning of International Law," Brigham Young University Conference on the United Nations and the Family, June 2000, p. 14.
3. See Curtis A. Bradley & Jack L. Goldsmith, *Customary International Law as Federal Common Law: A Critique of the Modern Position*, 110 Harv. L. Rev. 815 (1997).
4. However, some scholars do argue the Declaration has become binding international customary law. For an overview of a number of scholars' statements to this effect, see Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 GA. J. INT'L & COMP. L. 287, 323-26 (1995-1996).
5. Professor Mary Ann Glendon, of Harvard Law School, describes the Declaration's genesis thus: "Early in 1947, with the horrors of two world wars fresh in their memories, a remarkable group of men and women gathered, at the behest of the newly formed United Nations . . . , to draft the first 'international bill of rights.' So far as the Great Powers of the day were concerned, the main purpose of the United Nations was to establish and maintain collective security in the years after the war. The human rights project was peripheral, launched as a concession to small countries and in response to the demands made by numerous religious and humanitarian associations that the Allies live up to their wartime rhetoric by providing assurances that the community of nations would never again countenance such massive violations of human dignity. . . . [However,] together with the Nuremberg Principles [of 1946] . . . and the 1948 Geneva Convention, the Universal Declaration of Human Rights became a pillar of a new international system under which a nation's treatment of its own citizens was no longer immune from outside scrutiny. The Nuremberg Principles . . . represented a determination to punish the most violent sorts of assaults on human dignity. The Genocide Convention obligated its signers to prevent and punish acts of genocide. . . . The Universal Declaration was more ambitious. Proclaiming that 'disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind,' it aimed at *prevention* rather than punishment." MARY ANN GLENDON, *A WORLD MADE NEW* xv-xvi (Random House: New York, 2001) (emphasis in original).
6. Universal Declaration of Human Rights, Dec. 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 (1948). Available at <http://www.un.org/Overview/rights>.
7. Declaration art. 2.

8. Declaration art. 3.
9. Eleanor Roosevelt, who played a crucial role in the formation of the Declaration, explained that “the Covenant would be a simpler document in one way. It will have to cover fewer rights [than the Declaration]. But in another way it will be more complicated because the way those rights are to be assured to people throughout the world, under law, must be spelled out, and every nation in ratifying the Covenant—which will have the weight of a treaty—must be prepared to change its domestic laws so that it will be able to live up to its undertakings in the Covenant.” Glendon at 121.
10. International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171.
11. Covenant art. 6
12. See Curtis A. Bradley & Jack L. Goldsmith, *Customary International Law as Federal Common Law: A Critique of the Modern Position*, 110 Harv. L. Rev. 815 (1997).
13. 542 U.S. 692, 733 (2004).
14. Id. “Thus, Alvarez’ detention claim must be gauged against sources we have long, albeit cautiously, recognized.”
15. Report of the UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, UN Doc. No. A/HRC/7/11 (2008).
16. This is implicit in Covenant art. 40-42, 44.
17. The U.N. Committee on the Elimination of Discrimination against Women (CEDAW Committee) includes 23 “experts” on women’s issues. Its mandate is to monitor progress made by signatories in fulfilling treaty obligations. At biannual meetings, members review reports submitted by states the year after signing the treaty and every four years thereafter. See <http://www.un.org/womenwatch/daw/cedaw/reports.htm>
18. Report of the United Nations Committee on the Elimination of Discrimination Against Women, 13th Sess., to the General Assembly of the United Nations, 53rd Sess. (1998), “Report on Croatia,” Document #A/53/38, Para. 109.
19. Some countries attached “reservations” to the outcome document to make this clear. For example, Nicaragua’s reservations read:  
The Government of Nicaragua, pursuant to its Constitution and its laws, and as a signatory of the American Convention on Human Rights, confirms that every person has a right to life, this being a fundamental and inalienable right, and that this right begins from the very moment of conception. We accept the concepts of ‘family planning,’ ‘sexual health,’ ‘reproductive health,’ ‘reproductive rights,’ and ‘sexual rights’ expressing an explicit reservation on these terms and any others when they include ‘abortion’ or ‘termination of pregnancy’ as a component. Abortion and termination of pregnancy can under no circumstances be regarded as a method of regulating fertility or a means of population control.  
See A/CONF.171/13 Report of the ICPD, available at [www.un.org/poin/icpd/conference/offeng/poa.html](http://www.un.org/poin/icpd/conference/offeng/poa.html). Seven other Latin American countries—El Salvador, Honduras, Argentina, Dominican Republic, Ecuador, Guatemala, and Peru—made similar reservations, explaining that abortion was not to be read into the conference statement. *Id.* These reservations matter, because without *unanimity* there cannot be a standard of customary international law.
20. Programme of Action of the International Conference on Population and Development, U.N. Doc. A/CONF.171/13 (1994).
21. The author was present at the meeting as a private sector member of the U.S. delegation. Vamos-Goldman’s statement was widely reported at the time. See e.g. LifeSite U.N. Correspondents, *Canada Shocks U.N. Delegates*, LIFESITENEWS, June 14, 2001, <http://www.lifesitenews.com/ldn/2001/june/010614a.html>.
22. “United States of America Explanation of Position,” 5/1/2002.
23. Similar victories occurred in other places, such as Doha, where in November 2004 seventy nations agreed to reaffirm the commitments that protect life in the Declaration and the Covenant, without any additional abortion right being added. The Doha Declaration reaffirmed, *inter alia*, that “the child . . . needs special safeguards and care *before* as well as after birth” (emphasis added) and that “*everyone* has the right to life” (emphasis added), calling on governments to “ensure that the inherent dignity of human beings is recognized and protected throughout *all* stages of life” (emphasis added). Doha Int’l Conference for the Family, Nov. 29-30, 2004, Doha, Qatar, *Doha Declaration*, U.N. Doc. A/59/592 (Dec. 3, 2004).
24. Entered in the United States Congressional Record (p. E2535 to E2547) on 8 December, 2003.
25. Emphasis added.

26. *The Center for Reproductive Law and Policy v. Bush*, 304 F.3d 183 (2002). The suit was dismissed for lack of standing. (The Center for Reproductive Rights was formerly called the Center for Reproductive Law and Policy.)
27. One example of this is the case brought in Colombia by Mónica Roa, Constitutional Court of Colombia, C-355/2006, 10 May 2006, which declared that legislation criminalizing all abortions was unconstitutional.
28. *See, e.g., Graham v. Florida*, 560 U.S. \_\_\_\_ (2010), No. 08-7412, slip op. at 29-31 (U.S. May 17, 2010) (noting that other nations' and the international community's judgments are not "control[ling]" or "dispositive" but "also 'not irrelevant,'" *id.* at 29).
29. Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221 (entered into force Sept. 3, 1953) [hereinafter Convention], available at <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>.
30. Convention, art. 3. "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."
31. *Id.*, art. 8. "1. Everyone has the right to respect for his private . . . life. . . . 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."
32. *Vo v. France*, 53924/00 Eur. Ct. H.R. (2004).
33. Ireland's Constitution, Article 40.3.3. "The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right."
34. *A, B, and C v. Ireland*, 25579/5 Eur. Ct. H.R., Applicants' Reply to the Observations of Ireland on the Admissibility and Merits, Dec. 23, 2008, at ¶ 90.
35. *Tysiack v. Poland*, 5410/03 Eur. Ct. H.R. (2007).
36. The Court did, however, assert that "once the legislature decides to allow abortion, it must not structure its legal framework in a way which would limit real possibilities to obtain it."
37. Convention, Art. 35 § 1. "*Admissibility criteria* The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken."
38. Many pro-life groups filed amicus briefs in the case to guard against that potential worldwide ripple effect. *See A, B, and C v. Ireland*, 25579/5 Eur. Ct. H.R., Joint Written Observations of Third Party Interveners, Nov. 14, 2008, available at <http://www.aul.org/wp-content/uploads/2010/07/joint-observations.pdf>.
39. *Lautsi v. Italy*, 30814/06 Eur. Ct. H.R. (2009).

## A Tale of Two Men:

# Principles and Practicalities

Patrick J. Mullaney

In the now 37-year post-*Roe* era, two distinct pro-life legal strategies have evolved to combat *Roe* and its consequences. The first, known as the “incrementalist” approach, is a series of state-enacted legislative restrictions on the abortion liberty, each designed both to test *Roe*’s limits and to reduce the number of abortions. The second—often referred to as the “purist” approach—has been the pursuit of blanket-like legislation expressly outlawing abortion without exceptions, as well as the advocacy of Due Process recognition and protection of the life of the unborn child. It should go without saying that both “incrementalists” and “purists” have good intentions; but it must be said that neither agrees much with the other’s efforts. That being so, I’d like here to look into the strengths and weaknesses of each approach, including the criticisms each has of the other, attempting in the process to determine a common ground for their efforts going forward.

Let’s start by taking a look at “incrementalism.” Here, we see a strategy of “chipping away” at *Roe*’s foundation—the constitutional protection of abortion on demand—through imposition of specific legislative restrictions, such as informed consent, required waiting periods, and consent of a parent of a minor, before an abortion can be performed. In support of “incrementalism,” Paul Linton, former general counsel for Americans United for Life, pointed out in his Summer 2007 HLR article “Sacred Cows, Whole Hogs & Golden Calves” that these measures are in practical terms effective, meaning they can in fact be enacted, they can withstand judicial review, and, most important, they significantly reduce the number of abortions. In practical terms, they work and they save lives.

“Purists” object to the piecemeal approach. Consider (as did Mr. Linton) the thoughts of Charles Rice, a distinguished advocate of the unborn child and, among other things, professor emeritus of Notre Dame Law School and editor of *The American Journal of Jurisprudence*. Though conceding that “incrementalism” actually does save lives, Professor Rice argues that it also, by “chipping away at abortion’s edges,” implicitly recognizes the abortion liberty’s legitimacy and, in the process, undermines the underlying pro-life principle that “human life must be legally respected.”<sup>1</sup> Proper legislation,

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Professor Rice offers, must be principled, it must entirely and explicitly outlaw abortion, with “no exceptions,” including those for the life of the mother or in cases of rape or incest.<sup>2</sup>

For similar reasons, purists also advocate Due Process protection of unborn life. The reasoning goes that within our constitutional system, a judicial declaration of the unborn child as a Due Process “person” would be the pinnacle of a legal respect for unborn life. Further, and although Mr. Linton disagrees,<sup>3</sup> a strong case can be made that it would change everything about abortion in the United States. That is to say that although abortion is a private act, it also involves the state because it does involve a physician. That involvement would mandate constitutional scrutiny. Abortion procedures following a holding that the unborn child is entitled to Due Process protection could not be taught in state-funded medical schools nor be performed in state-funded hospitals. More important, a state could not be complicit in violating the recognized unborn-life right by licensing—or failing to revoke the license of—a physician performing abortions. Certainly, these are important considerations.

Mr. Linton, however, contests these “purist” approaches on several grounds. As to “no exceptions” legislation, he correctly points out the unlikelihood of such radical departures from the status quo being passed, much less upheld by the federal courts. As to the Due Process recognition of an unborn-life right, he also correctly points out that no Supreme Court justice from *Roe* through its numerous progeny has ever held that an unborn child is a Due Process “person,” nor is that likely to change.<sup>4</sup> He goes on to state, further, that efforts toward these ends should be discouraged as they are not only inevitably doomed to failure, but that they will also “demoralize” the pro-life movement.<sup>5</sup>

The two camps seem to have reached a classic impasse, practicality pitted against principle; ideological purity against saving lives. In viewing the situation it may be helpful to focus for a minute not on what’s disputed, but rather on what’s shared. From that perspective, it can be safely said that both sides, through their respective advocacies, are attempting to engage the culture, legislatively or judicially, on the issue of life. Their principles of engagement are identical; they share a common knowledge that human life is intrinsically valuable and that the culture has a subsequent obligation to recognize and protect it. These points being shared, it can be seen that disagreements are merely strategic. Can the obligation be discharged indirectly—incrementally—without betraying the core principles? Or should advocacy of the obligation be direct—pure—although without hope of immediate success and at the cost of unborn lives?

It's important to note that both Mr. Linton and Professor Rice act with certainty. Neither doubts life's value or the moral logic which couples that value with cultural obligation. It is also worth noting that such certainty is not without historical roots. Plato, Aristotle, and Augustine all recognized the human capacity to know and act upon transcendent, non-empirical truths.<sup>6</sup> St. Thomas Aquinas wrote firmly of the capacity of the human mind to know the moral order—including the obligation not to kill—and the necessity of a political order to conform to the moral order.<sup>7</sup>

The problem arises when the culture that is being engaged does not account for the certainty that both Mr. Linton and Professor Rice take as given. Ours is a material culture, our age a scientific age. In our culture, certainty over a matter is generally acknowledged only where a proposition is either logically necessary or based upon physical perception and refined by empirical analysis.<sup>8</sup> Being confined by these limitations, we leave ourselves no room for certainty concerning moral obligations, including the fundamental obligation of society to human life. To the modern man, moral obligations are properly relegated to the sphere of faith, and thus may not be imposed upon others who choose not to share that faith.<sup>9</sup>

So we can see that at a different level the disagreement between Professor Rice and Mr. Linton is really how best to deal with the moral skepticism they confront in their efforts concerning human life. Is the best approach indirect, confronting skepticism's consequences, rather than its correctness, as does incrementalism? Or is it to affirm the truth of life in the face of such skepticism? Practicality, purists argue, is nothing less than complicity.

Having set forth the areas of dispute and commonality—and hoping now to provide some helpful direction—I would like to examine two periods in American history in which fundamental social and political disruptions were caused by questionable human behavior: the Founding and the Reconstruction. How did America at these times deal with its contemporary challenges? And what can we learn from those times to fruitfully apply to our own?

The Founding response to tyranny is best found, of course, in the Declaration of Independence: “We hold these truths to be *self-evident*: that all men are created equal and endowed by their Creator with certain unalienable Rights, among them Life, Liberty and the pursuit of Happiness.” While recognition of unalienable rights and their source is most often noted, possibly a more important point is the manner in which they were recognized: They were declared to be self-evident. A self-evident truth or proposition is one that is accepted as true without proof. It is considered to be obvious. There is no need for discussion of opposing points of view or the imposition of one set of beliefs upon groups not sharing them. The truth is simply declared.

Thus, in response to an oppression justifying revolution, the United States was brought into existence by directly declaring the truth of the moral proposition that God has created all men equal before the law and that basic human dignities have a divine rather than a forfeitable human origin.

The Reconstruction response to its challenges was much the same. Having faced the carnage brought about by slavery, the 39th Congress set about remedying the limitations of prior law—which had allowed slavery to be imposed by state law—by expanding the scope of federal constitutional rights. Prior law had limited constitutional protections to “citizens,” which, given several Supreme Court rulings, did not include black people. In general, Section One of the Fourteenth Amendment expanded the scope of “citizenship” to include blacks and provide blacks with guaranteed constitutional rights against the federal government. Simultaneously, Section One also set forth a mechanism to incorporate Bill of Rights protections against the states through the Privileges or Immunities Clause. Given then-current law, these incorporated protections against the states were, again, only for the benefit of “citizens.” However, the 39th Congress saw that in incorporating the Fifth Amendment Due Process Clause—and its protection of life, liberty, and property interests—through the Privileges or Immunities Clause, non-citizens would be denied protection of the most basic human dignities. The Congress therefore enacted into Section One of the Fourteenth Amendment a *second Due Process Clause*, one that provided life, liberty, and property protections directly to all *persons*, not just that extended (by incorporation) to *citizens*. Congressman John Bingham of Ohio, possibly the most overlooked figure in American history given his work as the principal drafter of the Fourteenth Amendment, explained the purpose of the new Due Process Clause as follows: “*Natural or inherent rights, which belong to all men irrespective of all conventional regulations, are by this constitution guaranteed by the broad and comprehensive word ‘person,’ as contradistinguished from the limited term citizen—as in the fifth article of amendments . . . that ‘no person shall be deprived of life, liberty, or property but by due process of law.’*” [Emphasis Supplied.]<sup>10</sup>

Here, in confronting and remedying the scourge of slavery, and as set forth by the man who drafted Section One, is a direct and knowing statement of the solution to slavery: the nature of Due Process rights. Due Process rights are unconditionally declared to be “natural or inherent” and, therefore, possessed inalienably, not granted by government (“which belong to all men”), regardless of opposing points of view or skepticism (“irrespective of conventional regulations”). The relationship of law to these rights is one of obligation. They are to be “guaranteed.” It seems that in providing the

ultimate protection against violation of the most basic human rights, the 39th Congress firmly restated the self-evident moral truths previously declared by the Founders. John Bingham's statement is possibly as important as any uttered by an American leader. (I have discussed the history, mechanics, and purposes of the 14th Amendment Due Process Clause in articles published in the summer 2001 HLR and the summer 2004 HLR, always including Congressman Bingham's remarkable insight, commentary and logic. Readers are referred to those articles for greater detail.)

In these two most difficult periods in American history, our leaders shared essentially the same thoughts as do Mr. Linton and Professor Rice. They knew that human liberty was intrinsically valuable and that the culture had an obligation to protect it. They endeavored to protect it because of its intrinsic value. Further, each group kept its objective in sight—a nation free from either tyranny or slavery—and invoked its conviction, of liberty's value and of the nation's obligation to that value, in pursuit of that objective.

In pursuing any objective, there is a need to keep the objective in sight. When you're taking flying lessons, for example, one of the first things taught is how to land. The first instinct of any student pilot while landing is to look out the side window at the runway immediately below. Seeing this, the instructor will tell him that if he tries to land while looking at the runway below, he will surely crash. He needs to look out the *front* window—to the destination, the end of the runway.

It may be that there's not much difference between landing a plane and engaging a skeptical culture over abortion. If one keeps an eye on the objective—direct acknowledgement of the value of life by the culture and the moral obligation to protect it—while engaging the culture, the chosen method will be justified. Of course, that doesn't mean *immediate* success: Abortion's is a long runway. But it does mean that we'll be going in the right direction, proceeding towards our objective.

Let's now evaluate our two methods in terms of this standard. Do either, or both, demand an acknowledgement of the intrinsic value of unborn life, along with society's obligation to protect it? Starting with "purism," it can safely be said that the "purist" approach, advocating legislation expressly outlawing abortion as well as a Due Process status for the unborn child, is properly directed on both points. Its objectives are statedly on behalf of the unborn child and the child's interest in life and it demands that that life be protected, legislatively or judicially.

So what could be the problem with purism? Let's take a closer look at Mr. Linton's critiques. As mentioned above, Mr. Linton correctly pointed out that no Supreme Court justice has ever held an unborn child to be a Due

Process “person.” Nor is one likely to do so any time soon. He is right on both points. He goes further, however, and discourages “personhood” efforts, stating they only serve to “demoralize” the pro-life movement. As to that criticism, I can say with some certainty that he is quite wrong. To the best of my knowledge, several colleagues and I are the only people to ever advocate the Due Process life right of the unborn child from bottom to top: from Morristown, New Jersey’s Municipal Court to the Supreme Court of the United States. We did so in *State of New Jersey v. Alex Loce* between September 1990 and February 1994. To be sure, after three and a half years of effort, no Supreme Court Justice even voted to take the case. But that’s by no means the entire story. A tremendous number of good things happened along the way. For example, 160 friends of the Court from 70 nations around the world joined in the effort. Each presented briefs in support of the purpose of the case and, by doing so, helped to develop future strategies for similar efforts. Mother Teresa, Jérôme Lejeune, and John Cardinal O’Connor all became deeply involved, precisely because the effort spoke directly to the truth about unborn life and the need for its inclusion by the law.<sup>11</sup> I can say with certainty that no one was demoralized. In fact, all were honored to be a part of the effort and there was no regret for whatever investment was made, professional, personal, or spiritual. The prospect of success wasn’t the point, the opportunity to speak the truth was, though it certainly would have been nice to win.

**W**e may also want to cast some doubt upon the certainty that “personhood” will never, over time, be achieved. Take, for example, the current effort of Sen. Roger Wicker of Mississippi. Using the Fourteenth Amendment’s grant of authority to Congress to enforce Section One through enabling legislation, Senator Wicker is proposing, and attempting to create a national grassroots campaign in support of, a Life At Conception Act. The point of the Act is to legislatively declare the unborn child a Fourteenth Amendment “person” and have Congress declare the life right which belongs to such a status. While it is no doubt unlikely that Senator Wicker’s proposed legislation will be enacted into law soon, it is an acknowledgement of the importance of “personhood” and an affirmative step in that direction. If such an idea can take root in the Senate, it can also, ultimately, take root in the Supreme Court.

Mr. Linton also goes on to offer a critique of no-exceptions legislation. He begins by noting that even pro-life Justice Antonin Scalia has written that “the State may, if they wish, permit abortion on demand” and that the humanity of the unborn is a “value judgment” to be resolved politically. He

then goes on to acknowledge that, “Every justice on the Supreme Court understands the purpose and effect of an abortion is to kill an unborn child.”<sup>12</sup> In response, rather than point out the problems with Justice Scalia’s relegating the fate of an entire class of humanity to “political resolution” and the other justices’ acquiescing to an acknowledged course of killing, Mr. Linton takes the opportunity to describe the pursuit of no-exceptions legislation as “naïve,” suggesting that in the face of such opposition on the Supreme Court strong legislative efforts shouldn’t even be attempted. One could suggest a better response may have been speaking out against these opinions expressed by the Supreme Court justices and, simultaneously, in favor of affirmative legislative attempts on behalf of unborn life, likelihood of success notwithstanding. After all, purist efforts of all kinds are not objectionable in content; in fact, they’re ideologically correct and they come at no practical cost. Effective incremental legislation is neither precluded nor prejudiced by simultaneous purist efforts.

Taken as a whole, there seems to be much emphasis on success in Mr. Linton’s criticisms. But if we’ve learned anything from our predecessors, it’s that speaking the truth is *also* integral to ultimate success on moral issues of national concern. As Pope John Paul II often said, “Speak truth to power.” And purists certainly do that.

Let’s take a similar look at Professor Rice’s criticisms of incrementalism. We’ve already noted incrementalism’s impressive success rate in the most important category of all, saving lives. A 2008 Pew Report stated that the number of abortions nationally is at a 35-year low. Both sides of the abortion debate attribute the decline in large measure to state restrictions, in particular parental-notification and informed-consent statutes. Twenty-eight states now require parental involvement in their minor daughter’s abortion decision and 23 require doctors to inform a woman about abortion alternatives. If the incremental approach saves lives, it must be applauded.

Still, Professor Rice faults incrementalism for being “counterproductive” in that incremental restrictions do not directly protest the abortion procedure itself. Rather, he argues that the approach implicitly recognizes the legitimacy of abortion as the procedure remains uncontested once the formalities have been complied with.<sup>13</sup>

In theory, there may be a case for Professor Rice’s idea of complicity, in that by its nature incrementalism does not directly address the real problem with abortion. Rather, it addresses collateral issues such as consent, notification, and waiting periods. Doing so, it does not directly advocate the value of life and the obligation for its protection. However, as Mr. Linton makes clear, the *purpose* of all incremental restrictions is not to indirectly affirm

abortion's status or create a new set of woman's rights independent of the interests of the unborn child. On the contrary, it is to impose, through the coercive authority of the law, a practical method of protecting unborn life, taking into account undeniable realities. The approach thus values life and not only advocates its protection; in large measure, it *achieves* that protection. As to the fact that abortion's status is left intact despite the passing of incremental legislation, consider the following situation, which arose during the Fourth World Conference on Women held in Beijing in September 1995. The Holy See had sent a delegation to the Conference for purposes of stating its position on the Uniform Declaration of Human Rights to be issued by the Conference. The Conference's final report, in the delegation's opinion, contained a defective concept of the human person. Certain other aspects of the report were, however, acceptable, even desirable. Faced with a dilemma similar to that posed by incremental legislation, John Paul II instructed his delegation: "Affirm what can be affirmed, and vigorously denounce what you cannot accept."<sup>14</sup> The Holy See went on to state that "the good for women will ultimately prevail," because "women themselves will overcome the limitations of and bring out what is best in these documents." It's safe to say that incremental efforts—given their very impressive results—affirm the positive, do not condone the unacceptable, and provide an opportunity for their limitations to be overcome.

What we may have to conclude is that there is nothing wrong with incrementalism either, leaving us with the odd conclusion—taking into account all the criticisms—that each directly confronts the abortion culture on behalf of the unborn, affirming life's intrinsic value and advocating (in some cases, achieving) its protection.

It may be that our common ground is found within the positive aspects of each approach. Consider that on October 4, 1995, John Paul II addressed the United Nations General Assembly on, among other things, the global character of the human rights movement.<sup>15</sup> He offered the proposition that the movement's global character is empirical evidence of a universal human nature and a universal moral law. As a result, a dialogue between all people on human rights is possible, as is the possibility of *persuasion* toward the end of human rights. The Holy Father went on to say that "the universal moral law written in the human heart is precisely [the] kind of 'grammar' which is needed if the world is to engage this discussion of its future."<sup>16</sup>

In their respective efforts, Mr. Linton and Professor Rice are attempting to persuade the culture of the abuse of human rights which is abortion, each using the "grammar" of the universal moral law by directly advocating the value of unborn life and the need for its protection. Thus, we can conclude,

despite the strategic disagreements, the critical common ground is that each essentially does the same thing; each in fidelity to the moral law performs necessary tasks in pursuit of a most worthy goal.

Consider some further common ground. On October 5, 1995, John Paul II said Mass at Giants Stadium in front of 70,000 people. In his homily, he called attention to the fact that America was not conceived as a “radically individualist society” but rather as “a community based society [where Americans express] a great openness and sensitivity to the needs of their neighbors,” America being “a hospitable society, a welcoming culture.”<sup>17</sup>

Mr. Linton and Professor Rice share the further, equally profound, common ground of calling America back to its greatness, by addressing the American ideals of respect for and inclusion of all parts of humanity. If America is to regain its moral bearings on issues of life, it will have to count upon action taken both by people like Professor Rice, and by people like Mr. Linton. We owe each a deep debt of gratitude.

#### NOTES

1. Linton, “Sacred Cows, Whole Hogs & Golden Calves,” *Human Life Review* (Summer 2007) at 45.
2. *Ibid.*
3. *Ibid.* at 48.
4. *Ibid.* at 47.
5. Linton, “A Fool’s Errand: State ‘Personhood’ Proposals,” *Human Life Review* (Fall 2009), at 61.
6. See Copleston, *A History of Philosophy, Vol. I, Greece and Rome* (Doubleday, 1993), at 142-162 and 287-319.
7. *Ibid.*, Vol. II, *Medieval Philosophy*, at 388-422.
8. *Ibid.*, Vol. IV, *Modern Philosophy*, at 1-62; Vol. VI, *Modern Philosophy*, at 393-439.
9. *Ibid.*, Vol. IV, *Modern Philosophy*, at 1-62.
10. *Cong. Globe*, 35th Cong. 2nd Sess., 982. Mr. Bingham’s comments, made in 1859, demonstrate the logic behind the structure and purposes of what was eventually enacted as Section One of the 14th Amendment. In particular, the relationships between Sentence One, the Privileges or Immunities Clause, and the Due Process Clause are defined.
11. Numerous other distinguished advocates participated in the *Loce* efforts. Among them were Dr. Bernard Nathanson and Professor Russell Hittinger, who both testified at the trial level, and Robert George and William Porth, who served as Mother Teresa’s counsel when she joined the effort before the United States Supreme Court as an *Amicus Curiae*.
12. Linton, “Sacred Cows, Whole Hogs & Golden Calves,” *supra* at 47-48.
13. *Ibid.* at 45.
14. See, Weigel, *Witness to Hope: The Biography of John Paul II* (Harper Collins, 1999), at 771.
15. *Ibid.* at 774.
16. *Ibid.* at 774, quoting Address to the Fiftieth General Assembly of the United Nations Organization, October 4, 1995.
17. *Ibid.* at 777.

## APPENDIX A

*[Anne Higgins, a dear friend and generous supporter of the Human Life Review, died August 12, 2010, in Washington, D.C. Patrick J. Buchanan, who delivered the eulogy at her funeral, is the well-known journalist, author, and broadcaster. The following is the complete text of Mr. Buchanan's eulogy, reprinted here with his permission.]*

### Eulogy for Anne Higgins

*Patrick J. Buchanan*

It was December of 1965, 45 years ago, that I first looked on the friendly Irish face of Anne Volz, outside the law office of Richard M. Nixon.

Anne was Mr. Nixon's receptionist, and she ushered me into a small office behind her where one encountered the more formidable presence of Rose Mary Woods.

For 18 months, through that 1966 election, Anne, Rose, and I worked together in that tiny space, with a volunteer who answered the phone as Mrs. Ryan. Mrs. Ryan was the future first lady, Pat Nixon.

Anne instantly became my big sister. She brought me cigarettes. She brought me my cheeseburger and vanilla shake at lunch. She even tried to find a nice Catholic girl for me. Anne invited me to join her and her boyfriend George at a dance at the New York Athletic Club for Catholic bachelors and spinsters.

It was not a good fit. I left early. But it was not Anne's fault. As always, Anne meant well.

In the spring of 1967, Mr. Nixon's receptionist from his days as vice president, a Shelley Scarney, returned; and Anne was put in charge of the rising volume of mail Mr. Nixon was receiving. She had her life's vocation. Anne would be in charge of correspondence for three U.S. presidents.

And Miss Scarney found her life's vocation—as my wife.

Anne, Shelley, Rose, and I traveled together during that campaign of 1968. When it was over, we went together into the White House of President Nixon.

Anne and George were married, and were as happy and devoted a couple as I have ever seen. They lived in Columbia Plaza, but had privileges at the Watergate Hotel next door. Every evening, they would go to swim at the Watergate, where Shelley was living before we were married.

Many were the nights the four of us would go out together to dinner and talk about what was going in our White House.

Among Anne's extraordinary qualities was ferocious loyalty to those she loved, especially to George.

And George could be a contentious man. He had quit the FBI, and one of his principal grievances in this world, that he did not let you forget, was J. Edgar Hoover. There was a problem here. My uncle, Tom Jenkins, revered Hoover, and had risen to become Assistant Director of the FBI under Hoover.

At an Irish wake for my brother Bill, at my father's house, I found George in the kitchen, with Tom Jenkins, whom George had cornered, to explain to this former FBI assistant director what a loser J. Edgar Hoover was. I thought I was going to

have to break up a fight.

Anne assured me George had been entirely right about Hoover.

When I returned to the White House under President Reagan as Director of Communications, Anne was Chief of Correspondence, and the correspondence section was in my portfolio.

And in the White House turf battles with those known as “The Mice,” I protected Anne—and Anne protected me.

Every Friday, at President Reagan’s direction, Anne would select 30 letters that the president would take to Camp David to read, respond to, and return to Anne on Monday.

And every Monday, the senior staff had lunch with President Reagan.

At these lunches the president would walk in and start off reading a letter. I recall one to this day. It was a beautiful letter from a woman in her 80s, who said her husband had abandoned her when she was 40 years old and pregnant. She wrote that she had thought of having an abortion, but prayed on it, and decided to give birth to the baby. And that baby boy, 40 years later, her youngest son, was now taking care of her in her old age.

“Isn’t that a beautiful story?” said President Reagan.

As we walked out of the lunch that day, one of the president’s senior advisers, who was not pro-life, said to me in exasperation, “Where does he get these letters?”

He got those letters from Anne, who saw to it the president’s reading file always had in it at least one or two pro-life letters.

As my sister, Kathleen, who was then working in Anne’s shop said, “Anne turned White House Correspondence into a cell of Opus Dei.”

If you were a friend of Anne’s, and pro-life, you had a good shot at working, at least as a volunteer, in the White House.

When I think of Anne, I think of three qualities.

First is loyalty. Loyalty to her beloved George, loyalty to her Catholic faith, loyalty to her friends. As I can testify.

Back in 1991, when I challenged President George H. W. Bush, in the Republican primaries, Anne did not hesitate to sign on. More than that, she became a delegate for Pat Buchanan in the D.C. primary, and she called all my friends to demand that they, too, become delegates for Pat Buchanan in his campaign to dump a Republican President—even though it meant social, political and economic suicide for anyone who worked in Washington. Anne insisted that friendship came before social, political and economic survival.

Those who didn’t sign on as delegates got an earful from Anne about loyalty.

The second quality is courage. Few have suffered as Anne did in her later years, from one form of cancer after another, after another, while taking care of George. Nor can I think of anyone who went through so much suffering with fewer complaints.

My late father used to have a saying, “Offer it up!” Offer up any pain in this life for the suffering souls in purgatory. That, I think, is what Anne did in the last years of her life.

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And the third quality is compassion, especially, for these, the least of my children, the Lord said, the unborn. From that awful day, January 22, 1973, when *Roe v. Wade* was handed down, Anne was a fighting champion of the unborn. No hero of the pro-life movement did more.

The cause of life was the life cause—of Anne Higgins, for which God bless her, as I am confident he has already rewarded her—with eternal life.

Our friend Anne Higgins was a saint who walked among us.

St. Stephen Martyr  
Washington D.C.  
August 18, 2010



*Anne Higgins at the 2006 Great Defender of Life Dinner*

## APPENDIX B

[George Weigel is Distinguished Senior Fellow of the Ethics and Public Policy Center in Washington, D.C. and author of the just-published *The End and the Beginning: Pope John Paul II—the Victory of Freedom, the Last Years, the Legacy*. Weigel's column is distributed by the Denver Catholic Register, the official newspaper of the Archdiocese of Denver. The following appeared Aug. 11, 2010, and is reprinted with permission.]

### An Anniversary of Consequence

George Weigel

One On June 30, 1980, the U.S. Supreme Court issued its decision in *Harris v. McRae* and upheld the constitutionality of the Hyde Amendment, which had prohibited federal funding for Medicaid abortions since 1976. Three decades later, *Harris v. McRae* remains the pro-life movement's most important legal victory since *Roe v. Wade* created a "right to abortion" in 1973. That victory is now jeopardized by Obamacare, and by the insouciance of some Catholics about the extension of the Hyde Amendment to future federal health-care legislation.

On this 30th anniversary, therefore, it's important to remember just what was achieved in *Harris v. McRae*.

First, writing for the Court majority, Justice Potter Stewart made clear that, whatever putative "right to abortion" may be found within the interstices of the Constitution, such a "right" does not imply that the federal government can compel American taxpayers to pay for the deaths of innocents. As Justice Stewart put it, "Regardless of whether the freedom of a woman to choose to terminate her pregnancy for health reasons lies at the core or the periphery of the due process liberty recognized in [*Roe v. Wade*], it simply does not follow that a woman's freedom of choice carries with it a constitutional entitlement to the financial resources to avail herself of the full range of protected choices." In plain language: any putative "right to abortion" does not carry with it the power to make me pay for abortions.

Second, the majority in the Court's 5-4 decision accepted the Solicitor General's argument that the Hyde Amendment is, as my friend Edward Grant has written, "rationally related to the interest we all must have in preserving nascent human life and encouraging childbirth." In other words: pregnancy is not a disease, the choice to terminate a pregnancy is fraught with public implications, and the state has an interest in supporting the begetting and safe delivery of its future citizens.

Third, the Court rejected the plaintiff's claims that the Hyde Amendment's prohibition on federal funding of abortion involved an imposition of Catholic doctrine in violation of the First Amendment's ban on religious "establishment." In plain language: the abortion debate is not "sectarian," but engages fundamental issues of justice in which everyone has a stake.

The heroes of this victory should also be remembered at its 30th anniversary: Congressman Henry J. Hyde; Professor Victor Rosenblum of Northwestern University, Dennis Horan, Patrick Trueman, Thomas Marzen, and other members of the legal team at the Americans United for Life Legal Defense Fund; James

Buckley and Jesse Helms, who, with Congressman Hyde, entered the case as intervening-defendants. Some of the young lawyers who worked with the defense team in *Harris v. McRae* have continued to make names for themselves as national pro-life leaders: Carl Anderson, now Supreme Knight of the Knights of Columbus; Robert Destro, now of the Catholic University of America's law school; and Paige Comstock Cunningham, a longtime board member of Americans United for Life. All honor to them.

Their achievement, however, is not secure. The Hyde Amendment, although deemed constitutional, still had to be re-enacted in every Congress, every year following *Harris v. McRae*—a fact of legislative history that raises the most serious questions about the Obama administration's claim that the Hyde Amendment is such "settled law" that it need not be replicated in the various legislative iterations of Obamacare. The administration's "deal" with certain Democratic congressmen to include a Hyde Amendment-type ban on abortion funding through a presidential executive order is the thinnest of barriers—some would say, a non-existent barrier—against claims that abortion is a "necessary" form of health care that requires taxpayer funding. That some Catholic members of Congress and some Catholic health-care advocates have fallen for this sleight-of-hand reflects either grave misunderstanding of the law or bad faith.

The Hyde Amendment is a continual bone in the throat of abortion advocates, who once followed Henry Hyde to Mass in their efforts to "prove" that his amendment was the product of Catholic hocus-pocus. They won't down tools in this fight. Neither should the defenders of *Harris v. McRae*.

(Full disclosure: George Weigel is a member of the board of directors of Americans United for Life.)



*"You'd never know she has 500 friends on Facebook."*

## APPENDIX C

[*Adam Keiper and Yuval Levin are fellows at the Ethics and Public Policy Center. Keiper is the editor of The New Atlantis. Levin is the editor of National Affairs. The following appeared on National Review Online, August 25, 2010. © 2010 by National Review, Inc., 215 Lexington Avenue, New York, NY 10016. Reprinted by permission.*]

### Stem Cells, Life and the Law

*Adam Keiper & Yuval Levin*

Monday's decision from the U.S. District Court for the District of Columbia halting all federal funding of embryonic stem-cell research is a surprising milestone in the decade-long debate over this morally fraught field—and another opportunity to make the case that medical research must proceed hand-in-hand with respect for life and human dignity.

First, a little background. Human embryonic stem cells, which many scientists hope will someday lead to new therapies for a range of diseases, can be obtained only through the destruction of human embryos. But the Dickey-Wicker Amendment, which has been passed into law consistently since 1996 as part of the annual budget legislation, forbids federal funding for

(1) the creation of a human embryo or embryos for research purposes; or (2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death.

In 1999, the general counsel of the Clinton administration's Department of Health and Human Services argued that, consistent with the amendment, the government can fund research that uses stem cells derived from human embryos, so long as it does not fund the actual act of destroying those embryos. This way, the government technically does not fund research "in which" embryos are destroyed. President Clinton proposed to fund work that used lines of cells derived from the ongoing destruction of embryos, but to keep federal funds out of the specific process of destroying those embryos.

Whether or not it was a valid interpretation of the letter of the law, this proposal was certainly in violation of the spirit of the law. By essentially telling researchers, "if you destroy an embryo with your own money, then you will become eligible for federal funds," Clinton's proposed policy would have incentivized the destruction of human embryos.

That policy never actually took effect—his administration ended before any funds flowed. When President Bush came to office, he decided that while it might be worthwhile to use some public funds to see where research on embryonic stem cells might go (and particularly to develop cells with the abilities of embryonic stem cells without destroying embryos), it was important not to use taxpayer dollars to encourage the destruction of developing human beings. Presuming the legal validity of the Clinton administration's interpretation of the Dickey-Wicker Amendment, the Bush administration looked for a way to help scientists see where

the research might go while not creating incentives for further embryo destruction.

In August 2001, Bush announced a compromise policy: He would use federal dollars to fund research on lines of cells derived from embryos that had been destroyed before his announcement, but not on any lines created after the announcement. That way, the availability of federal dollars would not act as an encouragement to destroy embryos in the future. This, Bush believed, was in line with both the letter *and* the spirit of the Dickey-Wicker Amendment.

Almost immediately, the Left attacked that policy, claiming that it was deceitful (not so), that it caused American researchers to fall behind the rest of the world (demonstrably false), and that it was part of a larger Republican “war on science” (ludicrous). To be sure, pro-life critics could truthfully criticize the Bush administration for not going far enough to protect human embryos. And scientists could correctly criticize the Bush policy for slowing somewhat the pace of their research—moral restraints will have that effect. But imperfect though it was, the Bush policy was a reasonable compromise that promoted research without turning the destruction of human embryos into a national project.

Believing that stem-cell research would be a wedge issue in their favor, Democrats overhyped it in the 2004 campaign. Four years later, candidate Barack Obama cast himself as a guardian of science—and once inaugurated, he overturned the Bush policy on embryonic-stem-cell research. President Obama ordered the National Institutes of Health (NIH) to develop guidelines that would allow federal funding to flow to researchers working on stem-cell lines derived from the ongoing destruction (with the parents’ permission) of “spare” embryos frozen in IVF clinics—essentially implementing the 1999 Clinton policy.

Monday’s court decision involved the legality of the Obama policy and the NIH guidelines. Two scientists whose work involves non-embryonic stem cells asked the court to enjoin the use of federal funds for embryonic-stem-cell research on the grounds that it violates the Dickey-Wicker Amendment. Mirroring Clinton’s argument, the Department of Health and Human Services responded that while the amendment prohibits “research in which a human embryo or embryos are destroyed,” the Obama plan funds only the research that occurs after the point of destruction.

In his ruling Monday, Judge Royce Lamberth of the U.S. District Court rejected the government’s reasoning. Embryonic-stem-cell research “is clearly research in which an embryo is destroyed,” since by definition it requires the destruction of human embryos. It makes no sense, the judge wrote, to claim that the destructive act and the experimentation on the resulting stem-cell lines are “separate and distinct ‘pieces of research.’” The fact that embryonic-stem-cell research “involves multiple steps does not mean that each step is a separate ‘piece of research’ that may be federally funded, provided the step does not result in the destruction of an embryo.” The judge issued a preliminary injunction halting all federal funding of embryonic-stem-cell research.

Judge Lamberth’s interpretation of the Dickey-Wicker Amendment is certainly in line with the original intent of the authors of that amendment, and with the

understanding of the members of Congress who originally voted for it in 1996, even if the Clinton administration's interpretation (which was then adopted by both the Bush and Obama administrations) is arguably reasonable in light of the meaning of the term "in which." When the decision is appealed, the Obama administration will no doubt challenge the judge's assertion of the unity of all stages of embryonic-stem-cell research. Is the judge right to conclude that any experimentation on embryonic stem cells is, in the eyes of the law, inseparable from a broader research project that implicates the destruction of an embryo? On the one hand, it is true that all research on embryonic stem cells was preceded by and is made possible by the destruction of an embryo; the two acts are morally entangled. It is certainly clear, moreover, that by offering taxpayer dollars for the research regardless of when the embryo was destroyed, the Obama policy (unlike the Bush policy) incentivizes new acts of embryo destruction.

But on the other hand, imagine a young scientist just beginning his career, experimenting on stem cells derived from embryos destroyed years earlier, on the other side of the country, when he was still in junior high. Is he morally culpable for the act of embryo destruction? Is he engaging in what the law would consider "research in which a human embryo or embryos are destroyed"? If so, then the last nine years of federal stem-cell-research funding policy—under Bush as well as Obama—has indeed been in violation of a law passed by Congress in each of those years.

Whichever way the matter is finally resolved in the courts, it is certainly a great improvement to be asking this question—does the research being funded involve the destruction of human embryos?—and presuming that if the answer is yes, then the research should not be funded, rather than debating whether the destruction of developing human lives is of any consequence, and whether it should be supported by taxpayer funds. Putting the question this way, and presuming the incalculable moral significance of human life, was certainly the intent of the Dickey-Wicker Amendment, and should be the aim of any decent society.

But of course, the Obama administration and other champions of embryo-destructive research do not actually share this aim, and have always used the Clinton administration's clever loophole as mere cover. They do in fact want to encourage the destruction of human embryos for research, and they know that the Obama policy (unlike the Bush policy) would do just that. Judge Lamberth has called their bluff.

If the political climate and schedule were different, we might expect Congress to step in—perhaps with Democrats trying, as they have many times before, to knock the Dickey-Wicker Amendment out of the budget, or with both chambers moving on proposed legislation to fund embryonic-stem-cell research. But given the congressional calendar and the looming election, it is hard to imagine that Congress is going to do either—or much of anything else—during the remainder of the year. For the time being, this issue is one for the courts to decide and so, thanks to the Dickey-Wicker Amendment, the question is not whether human life is worth protecting but whether the government is going to sufficient lengths to protect it. It is a very good question.

## APPENDIX D

[Elizabeth Marquardt, the director of the Center for Marriage and Families at the Institute for American Values, is co-investigator of the ground-breaking *My Daddy's Name is Donor*, which reports a large study of adults conceived through sperm donation. The report is available at [FamilyScholars.org](http://FamilyScholars.org), where she also blogs. The following first appeared July 28, 2010, on *First Things Online* ([www.firstthings.com](http://www.firstthings.com)) and is reprinted with permission.]

### **The Kids Are Not All Right**

*Elizabeth Marquardt*

A scruffy man, tanned and good-looking, dressed in an old leather jacket and snug jeans, is on a motorcycle zipping through a neighborhood near you. He's a restaurateur into "local" everything, a man whose produce vendor is one among many sexy women who want to hook up with him. He was also, years ago, a sperm donor who, unbeknownst to him, achieved reproductive success.

Meet Paul, who is about to encounter the California lesbian couple who each became pregnant with his sperm. In a moving, at times ambivalent and, despite its attempts at realism, largely fantastical exploration, the new hit movie *The Kids are All Right* probes the emotional fall out after eighteen-year-old Joni makes a phone call that results in a first-ever meeting between the two teenagers, their biological father (played by Mark Ruffalo), and the mothers (Annette Bening and Julianne Moore) who raised them.

The movie is rich on particulars and complexity; there are no stock characters here. The lesbian mothers are sympathetic, funny, and attractive, but have their faults. The daughter is a classic overachiever who wants to protect her mothers. The fifteen-year-old son is a jock with feelings, at ease in a world of women but not one of them. If you came looking for a heavy-handed defense of gay marriage or a commercial for gay families, all happy-go-lucky behind their white picket fences, you won't find it here.

What you will find is a sometimes searing exploration of the raw emotions at stake when women who never intended for their children to have a father suddenly find a father in their lives. "The plan was to limit the involvement," says one, desperately. "He's their biological father and all that crap," says the other. "And it's really sh—. Like we're not enough or something."

The film also exposes the task that confronts children when they meet their sperm donor father, for the first time, once their childhood is largely over. On their way to meet Paul, protective Joni warns Laser, her brother, "I just don't want you to have big expectations." Later, Laser asks Paul, "How much did you get paid?" Paul admits, "I got paid 60 dollars a pop." Laser flinches, and so do we, at a child's bald confrontation with the cold facts of his commercial conception.

Despite the attempts at realism, the movie is a fantasy. To begin with in real life, these kids would not have found it so easy to find their sperm donor father. And it's equally unlikely that he would resemble the easy-going, available Paul.

The movie implies that the children have an identity release donor, a concept

pioneered by the lesbian-friendly Sperm Bank of California in the 1980s. The policy allows children to learn the identity of their sperm donor when they turn eighteen. Once Joni makes the phone call, in the blink of an eye Joni, Laser, and Paul are sitting at an outdoor table, bathed in sunlight, playing get-to-know-you.

For most donor conceived persons, this is the stuff that dreams are made of. Throughout its long history (the first recorded case of donor insemination in America took place in Philadelphia, in 1884), sperm donation has nearly always been an anonymous transaction. Male infertility was a source of shame, and going outside the bonds of marriage to reproduce with the aid of modern medicine was thought best kept a secret for the sake of everyone involved.

Even today, with greater societal openness about sexual matters, still most donor offspring have not even been told the truth by their parents about how they were conceived, and the law continues to allow anonymous donations of sperm and egg. If young people do find out they were conceived through sperm donation, they have almost no hope of finding their biological father.

While lesbian couples and single women who use sperm donation have tended to be more open about how the children were conceived (the obvious lack of a father does raise the question), they often use anonymous sperm donors, too. Some lesbian women fear that a non-anonymous donor might someday challenge them for custody of their children. Others have other reasons, recently highlighted in a publication by COLAGE, a support and advocacy organization for children of gay and lesbian parents and their families.

One lesbian mother says she and her partner chose an anonymous sperm donor because “we didn’t want to triangulate our parenting or form a life-long negotiated relationship with anyone else but ourselves.” Another says she had a “fear that our child [would] at some point wish for a father and embrace a relationship with the donor seeking this, in ways that harm[ed] our child or displace[d] our parenting relationship.” Another says, “we wanted [our children] to have 2 parents who were moms only.”

Granted, Joni and Laser have an identity release donor. But in these cases, the sperm banks only promise to provide their most recent contact information for the donor to the child who has reached age eighteen. It’s up to the sperm donor to keep his contact information updated. If you do locate him, he probably won’t live a short motorcycle ride away, as Paul does. He could live in another part of the country, or another part of the world. He probably now has a family of his own (in the movie, Paul does not) and his wife might not be thrilled about him meeting his other children. Or he could be dead.

The film also implies that Joni and Paul are the only children resulting from Paul’s donations. The fantasy depends on his being able to give them his undivided attention (and so it is also useful that Paul is single). In the United States, there are no limits to how many children can be conceived with one donor’s sperm. The American Society for Reproductive Medicine offers merely a professional recommendation that one donor father no more than 25 children.

If a man donates at more than one clinic, there is no way to know how many children he has. Some donors have discovered they have dozens of children. One donor in the United Kingdom has more than sixty. If other children conceived with Paul's sperm start coming forward, how much of Paul will there be to go around?

But for the moment, let's accept the premise of the movie. The kids have found their sperm donor biological father. Now what? Ambiguity reigns, and it's up to the children to make sense of it all.

The COLAGE guide is authored by a young man who was himself conceived through sperm donation and raised by lesbian mothers. Of the sperm donor, he says, "we must decide what this person means to us." He notes the "challenging task of defining the relationship with your known donor." He reassures the reader, "It is completely normal and okay to speak up about the kind of relationship you want with your donor."

When the institution of something called fatherhood falls apart, this is what happens. We leave children to define the relationship of themselves to their fathers. Children must decide what this person "means" to them. They should "speak up."

Some might be able to do this. But what about the others? What about the ones who are not gifted with emotional intelligence—the ones who aren't skilled at negotiating ambivalence and speaking up about their own needs in the face of their parents' tender feelings?

And what about those whose sperm donors have no interest in being fathers? In the COLAGE guide, one young woman says, "My donor doesn't seem to be particularly into the whole father thing with me, and it caused me quite a bit of pain trying to get him to be." Another says: "I grew up having certain expectation of what roles my [sperm donor] . . . would play in my life and when [he] didn't fulfill those expectations, I was hurt."

A recent study of donor-conceived adults, reported in *My Daddy's Name is Donor*, found that, overall, donor offspring are hurting more, more confused, and more isolated from their families compared to those who are adopted or raised by their biological parents. Two-thirds say, "My sperm donor is half of who I am," even though few know who that donor is. They are significantly more likely than other children to be struggling with problems like substance abuse, delinquency, and depression.

In *The Kids are All Right*, the actors benefit from a script. In real life, there is no script for these kids. It's up to them to figure everything out and make the best of it. The person whom a child rightly considers her father is a man who might well believe—probably does believe—that he is just a "donor." That is not—at all—all right.

## APPENDIX E

*[Vardit Ravitsky is an assistant professor in the bioethics program, faculty of medicine, at the University of Montreal. Joanna E. Scheib is an associate adjunct professor of psychology at the University of California, Davis, and research director of The Sperm Bank of California in Berkeley. © The Hastings Center. Reprinted by permission. This article originally appeared on Bioethics Forum (<http://www.bioethicsforum.org>) July 20, 2010.]*

### **Donor-conceived Individuals' Right to Know**

*Vardit Ravitsky and Joanna E. Scheib*

In recent years, the interests of donor-conceived individuals have come to the forefront. They have become the center of a lively academic debate as well as a driver for support networks, educational campaigns, and legislative changes. While most countries still maintain the norm of protecting donor anonymity, a trend towards making donor identities available is gathering momentum as a growing number of countries adopt laws and regulations banning anonymity.

In the United States, disclosure of donor identity is regulated neither by state nor by federal law. Anonymity is legally permissible and still predominates. No central registry exists to record and safely retain information that would allow possible future linkage of donors and offspring or offspring related through their donor (and raised in different families). Compliance of donor insemination programs, sperm banks, and fertility clinics with professional guidelines regarding recordkeeping is voluntary.

In this legal and regulatory reality, many individuals with donor origins will never have potential access to information about their donors (either detailed nonidentifying information or identifying information subject to donor's consent to release). Does this reality raise serious ethical concerns?

Some argue that having access to information about one's ancestral and genetic origins is a fundamental human right that requires no empirical support. In the words of Baroness Mary Warnock, a leading British ethicist, "I cannot argue that children who are told of their origins . . . are necessarily happier or better off in any way that can be estimated. But I do believe that if they are not told they are being wrongly treated."

Others argue that what underlies the right to know are empirical facts: knowing is essential for healthy family relationships, development of personal identity, psychological well-being and even health (consider the potential medical harms embedded in making false assumptions about half of your genetic heritage).

If we accept the second approach, which is ethically weaker, we need empirical data about the needs, interests, and life experiences of donor-conceived individuals, proving that being denied access to information about donors is indeed harmful. Unfortunately, the collection of such data is particularly challenging for a number of reasons.

First, research conducted with parents who used a donor to create their families shows that most do not tell their children the truth about the circumstances of their

conception. This is true even in countries that have banned anonymity. Those who do not know that they are donor-conceived cannot be recruited to participate in research, which creates an insurmountable limitation to the study sample in any research on the life experiences of donor offspring.

Second, confidentiality issues make recruitment of this population exceptionally challenging and sample sizes are typically small (even the larger studies include less than 100 participants).

Third, typical recruitment strategies of research participants through support networks may lead to a significant selection bias, as it is likely that individuals are members of such networks precisely because they are suffering from identity issues or have specific interests.

Finally, because of these challenges, and because the majority of people with donor origins are still relatively young, no longitudinal studies (the gold standard in social science research) have been completed that would ideally follow individuals throughout life and record the impact of their unique status on various life stages and transitions.

Despite these challenges data have been consistently accumulating over the past decade from small studies conducted in different countries indicating that indeed donor-conceived individuals have a strong interest in having access to information about their donors. For example, in 2005 Scheib and colleagues asked 29 donor offspring, ages 12 to 17 years old, from a program that allows adult offspring to identify their donors whether they were planning to ask for their donor's identity. The majority said they were moderately to very likely to request this information.

Three recent surveys with relatively large samples offer additional insights that can inform the ongoing debate about donor anonymity. A survey, published last spring in *Reproductive BioMedicine Online*, of 165 individuals who are members of a donor siblings support network is the first study to obtain systematic data from individuals conceived using anonymous sperm donation about their experiences searching for and contacting their donor and siblings with the same donor. The study acknowledges the limitations caused by the sample bias (since participants are members of a group that facilitates contact between donor-conceived individuals and their half-siblings or donor).

The findings indicate that the main reasons individuals were searching for their donor and donor siblings were curiosity about the characteristics of the donor and the desire to gain a better understanding of their genetic identity. Wanting to meet the donor and medical reasons were also significant. In the open-ended questions, many wrote about "the importance of knowing their genetic or ancestral history, and the sense of frustration they felt at not being able to access this information."

About a third said that the search was prompted by a change in their personal circumstance or by reaching a developmental milestone, such as becoming a teenager, an adult, getting married, or having children. For those who had their own children, searching was a way of providing an ancestral history for their children.

## APPENDIX E

The second is a survey of 485 adults conceived through sperm donation that was designed to “probe the identity, kinship, well-being, and social justice experiences of donor conceived adults.” It is the largest reported sample to date and its methodology of random sampling reduces sample bias.

Data from this survey show that donor offspring indeed perceive being told the truth about their conception and having access to information about donors as important to their well-being. Eighty percent felt that “donor conception is fine as long as parents tell children the truth about their conception from an early age” or that telling early on “makes it easier for the children.” In addition, 68 percent felt that they had the right to nonidentifying information about their donor, 67 percent that they had the right to know his identity, and 63 percent that they should have the right to have the opportunity to form some kind of relationship with him (although only 34 percent actually wanted some relationship).

A shortcoming of the study is that it was not peer-reviewed for methodological or more general scientific rigor. But the finding that offspring benefit from and value both donor information and being told the truth was obtained by another study of adult offspring published last spring in a peer-reviewed journal, *Fertility & Sterility*.

What clearly emerges from these surveys is the urgent need to secure at least the possibility of future access to information about donors. The current situation in the U.S. therefore raises serious ethical concerns. The human need to know where we come from includes a genetic component.

The current U.S. reality therefore calls for immediate action. First, existing mechanisms should be modified to assist in recordkeeping. The Food and Drug Administration currently requires that records pertaining to each donor be maintained for at least 10 years, which in this context is a very short period. The American Society for Reproductive Medicine recommends maintaining “a *permanent* record of each donor’s initial selection process and subsequent follow-up evaluations” and acknowledges that “a mechanism must exist to maintain such records as a future medical resource for any offspring produced.” The FDA should adopt this recommendation and require records to be kept indefinitely by individual donor insemination programs, sperm banks, and fertility clinics.

Second, a central registry should be created that would safely record all data related to sperm (and more generally gamete) donations for an indefinite period. At this point at least, this registry can remain confidential. If and when a change in policy becomes possible, it would ensure that future access to information would be possible. The efforts of a recent initiative to create a National Gamete Donor Registry have failed. The current vacuum calls for leadership from various stakeholders to create the appropriate mechanism to ensure that people with donor origins can, in the future at least, be treated fairly.

## APPENDIX F

[*Anna Halpine is the founder and CEO of the World Youth Alliance. Greg Pfundstein is the executive director of the Chiaroscuro Foundation. The following appeared June 26, 2010, on National Review Online (www.nationalreview.com). © 2010 by National Review Inc., 215 Lexington Avenue, New York, NY 10016. Reprinted by permission.*]

### **Politicizing Aid at the G8 Summit**

*Anna Halpine & Greg Pfundstein*

On the agenda at the G8 summit in Canada is promoting maternal and infant health in the poorest parts of the globe. The high rates of maternal and infant mortality in many countries are an impediment to democracy and social development, to say nothing of a human tragedy for these communities. Commitments of resources from the G8 countries to address these problems should be welcomed and commended. Why, then, is the Obama delegation threatening to derail these agreements?

The numbers are shocking: In Sierra Leone, 16 percent of all infants perish, and 28 percent of all children die before they reach the age of five. In thirteen countries in sub-Saharan Africa, more than 1,000 women die in childbirth for every 100,000 live births. In Afghanistan, one in eight women will die as a result of bearing children. All in all, 99 percent of maternal deaths worldwide occur in developing countries.

There is good news: Much can be done, and much has been done, to bring these numbers down. This spring, *The Lancet* published a new study that demonstrated significant progress in reducing maternal deaths. The article announced that worldwide, maternal death figures are on the decline; rates have fallen from 526,300 in 1980 to 342,900 in 2008. The reasons for the reduction in maternal deaths are many, including lower pregnancy rates for some countries, greater access to education, improved access to nutrition and health care, and the increasing number of skilled birth attendants. Abortion has not been identified as a factor in the reduction of maternal deaths. A study on the question was funded by the Bill and Melinda Gates Foundation, and at the recent Women Deliver conference, Melinda Gates pledged a further \$1.5 billion for maternal health, specifying that no funding would be provided for abortion.

Globally, divergent groups and organizations have banded together to find ways to reduce maternal and infant deaths, and to call attention to this largely neglected issue. This coalition has recognized that women and children have often been a marginalized political constituency, and that the deaths of poor women have often not mattered enough to draw the attention necessary to leverage policy or funding commitments. This is now changing, and there is a growing amount of data that provides us with a blueprint for how to accelerate progress in the fight to reduce maternal deaths, as Egypt and other countries have now done. Significantly, the most current research, from the *Lancet* article to UNDP, identifies the same key factors as the critical elements in reducing maternal and infant death. These factors form the cornerstone of the Canadian prime minister's G8 initiative for maternal and infant health.

Given this, one would expect there to be universal support for Canada's leadership in taking on these problems and working to meet these critical needs. But the Obama administration is obstructing this positive consensus. Hillary Clinton, when asked about Canada's G8 plan to address infant and maternal health in the developing world, said the following: "You cannot have maternal health without reproductive health. And reproductive health includes contraception and family planning and access to legal, safe abortion."

It is surprising that Hillary Clinton would insist on funding for abortion and risk derailing an initiative that is poised to generate unprecedented commitments in both the private and public sectors. It is especially surprising considering the body of recent scientific evidence supporting the effectiveness of various straightforward, uncontroversial, and achievable means to reduce maternal and infant mortality.

When top U.S. officials change the subject away from important global policy and development work to push for favored hot-button political issues, it gives the appearance of using American taxpayer funding to promote social engineering, bypassing public debate about the best way to achieve development worldwide and address the very real unmet needs of the developing world. Does Hillary Clinton think it is more important to promote liberal Western ideologies than to address the critical needs of the women and children of Africa and Asia? Does she prefer to promote the tired, old eugenic orthodoxies of the largely discredited population-control movement? Is Hillary Clinton—and the Obama administration—willing to hold up funding for maternal and infant health because of a dogmatic commitment to a universal right to abortion on demand? What about the rights of countless women all over the world who want to bring children into the world safely, without risking their lives and the lives of their children?

In much of Africa and southern Asia, where infant and maternal mortality is highest, abortion is not legal. The women and children of those countries deserve the help of the developed world to increase their chances of survival, independent of whatever ideological stance Hillary Clinton wishes to take with regard to abortion. Clinton and the Obama administration should not risk wasting the opportunity provided by Canada's leadership to provide the needed basic resources for the world's most vulnerable women and children. She should stand with Canada and join the voices calling for the rest of the G8 to come forward with generosity and political will to achieve this noble initiative.

## APPENDIX G

[*Carolyn Moynihan is a deputy editor of MercatorNet (www.mercatornet.com), the website where the following essay first appeared, May 14, 2010. Reprinted with permission.*]

### Prisoners of the Pill

*Carolyn Moynihan*

Mother's Day in the United States (and some other countries) had an ironic twist to it this year: the powers that be chose to observe May 9 as the fiftieth anniversary of the public debut of the contraceptive pill, the twentieth century's chief weapon against motherhood as a serious vocation.

Articles marking the occasion have been largely celebratory in tone, reminding women that their lives have been powerfully transformed—for the better—by the pill. We have been liberated from biology to extend our education, engage in paid work, carve out public careers and achieve financial independence. Hooray.

True, there has been the odd complaint about this wonder drug. "I hate the pill," declares Geraldine Sealey at Salon. "Hormonal contraception, which covers birth control pills and nearly every other highly effective method on the market, murders my libido." Still, she can't stop herself patting contraceptive pioneers such as Margaret Sanger on the back.

The Wall Street Journal wonders why, at this late stage of the game, almost half of US pregnancies—about 3.1 million a year—are unintended. It turns out that a lot of people who are having sex but don't want a baby are not responsible enough to use contraception. How surprising. Then there are all the women who miss taking their pill—so many that Princeton's birth control expert James Trussell says we should forget the pill and steer women towards long-acting contraceptives such as implants and IUDs. (Women may be liberated, you see, but they can be, er, not smart.)

Fail-safe birth control is not the only thing the era of the pill has not delivered. Elaine Tyler May, author of a new book on the pill, admits that ending poverty, curing divorce and eliminating unwed pregnancies were "promises the pill could never keep." Indeed, all those things have flourished during the past 50 years and societies have stopped even trying to encourage marriage and discourage divorce. Poverty is the only thing that has not been rationalised, but then its link with contraceptive culture is not even recognised.

Still, we are meant to rejoice that women have the world at their feet, because, even if their contraceptive device or their willpower fails, there is always abortion to ensure that they can keep their job, if not their husband. All in all, then, women should be happier than they were when their energies were largely consumed by looking after a husband and three or four kids.

#### **Declining female happiness**

Are they? No. Much quoted research by Betsey Stevenson and Justin Wolfers of the University of Pennsylvania shows that there has been a marked decline in

women's happiness in the industrialised countries over the past 35 years. In an article last year they wrote:

The paradox of women's declining relative well-being is found across various datasets, measures of subjective well-being, and is pervasive across demographic groups and industrialized countries. Relative declines in female happiness have eroded a gender gap in happiness in which women in the 1970s typically reported higher subjective well-being than did men. These declines have continued and a new gender gap is emerging—one with higher subjective well-being for men.

Stevenson and Wolfers stress the power of this decline by equating it to the misery resulting from an 8.5 per cent rise in unemployment, or to having missed out entirely on the gains from economic growth since the 1970s.

A paradox? A mere coincidence that female happiness has been eroded at same time as the pill was bringing liberation? Denver economist Timothy Reichert does not think so. In a recent article in *First Things* ("Bitter Pill", April, 2010) he says that, contrary to the rhetoric of the sexual revolution, contraception is deeply sexist in nature. It has shifted wealth and power away from women, and away from their childrearing years when they need it most. It has also, for that reason, made children on the whole worse off.

Reichert arrives at these conclusions by doing a market analysis of sexual relationships under the influence of what is still known as "efficient contraception." To my mind, he makes a highly plausible case.

#### **How women lose: a market analysis**

Fifty years ago, he argues, there was a single "mating market", populated by men and women in roughly equal numbers and who paired off in marriage. By lowering the cost of premarital and extramarital sex (pregnancy, shotgun marriage) contraception allowed a separate sex market (apart from prostitution) to form. That would not have affected either sex adversely if the numbers of men and women in both markets remained roughly equal, but of course, they did not.

Because of limits to their fertility, women have to move out of the sex market and into the marriage market earlier than men. This makes them relatively scarce in the former and abundant in the latter, able to negotiate better "deals" in the first but worse deals in the second where there is a scarcity of marriageable men.

(As an aside, this dilemma puts me in mind of Lori Gottlieb's much-bruited willingness to give up the quest for romantic love in her forties and "settle" for a husband who will put out the garbage bin and fix the leaky taps. )

Under these conditions, says Reichert, men take more and more of the "gains from trade" and women take fewer and fewer. He comments:

This produces a redistribution of bargaining power and, ultimately, of welfare from the later childrearing phases of a woman's lifetime toward the earlier, and in my view less important, phases. This redistribution has some very concrete, very undesirable consequences for women—and for the children that they bear.

What are these consequences? Reichert points out four.

**More divorce.** Striking “bad deals” in an imbalanced marriage market makes divorce more likely. Reduced commitment creates a “demand” for divorce even before the marriage begins (pre-nups). At the social level women allow the stigma of divorce to erode and they support no-fault divorce laws. They compensate for these trends by developing relatively more market earning power, and invest less in family relationships, the moral formation of their children, and community activism. In doing so, they become more like men, and the couples become less interesting to one another. “Sameness begets ennui, which begets divorce.”

**Inflation of household costs.** As wealthier two-earner households bid up the price of homes, more women are forced into the labour market. With this comes a redistribution of welfare from younger to older generations, and from a family’s younger, child-rearing years to its later childless years (when they could sell the \$500,000 house). This redistribution “rests largely on the backs of the women in the labour force who support the higher housing cost and, ultimately, on the children who otherwise would have had the benefit of their mothers’ time.” And perhaps another sibling.

**Infidelity.** This increases because the cost—detection—is lowered. The sex market provides the opportunity, and here married (successful, older) men are more attractive to younger women, than older women are to younger men. This, again, is to the detriment of women.

**Abortion.** Before the pill the cost of an unwanted pregnancy was often borne by the man in the form of a shotgun wedding. Now it is borne by the woman: contraception is her business and so, therefore, is the unintended pregnancy. If she keeps the baby she forfeits opportunities in the labour market; if she has an abortion (which around one million women in the US do each year) she usually pays the money cost and always the emotional costs.

To repeat Reichert’s conclusion:

Contraception has resulted in an enormous redistribution of welfare from women to men, as well as an intertemporal redistribution of welfare from a typical woman’s later, childrearing years to her earlier years.

Further, given that women’s welfare largely determines the welfare of children, this redistribution has in part been “funded” by a loss of welfare from children. In other words, the worse off are women, the worse off are the children they support. On net, women and children are the big losers in the contraceptive society.

And this fits with the Stevenson and Wolfers finding of declining happiness among women.

The big question is, then, why do they put up with it?

### **The prisoner’s dilemma**

Reichert explains it as a “prisoner’s dilemma”—a concept from game theory. This posits a situation where all parties have choice between cooperation and non-cooperation, and where all would be better off if they chose cooperation. However,

because the parties cannot effectively coordinate and enforce cooperation, all choose the best individual choice, which is non-cooperation.

Applying this to young women in a contraceptive culture Reichert suggests that those who don't enter the sex market miss out on the "higher prices" paid there (presumably he means things like more attention from men, more likelihood of a partner, a sense of wellbeing and a "good" image) but they also remain at a disadvantage in the over-subscribed marriage market. Their "optimal decision" therefore is to "to enter the sex market and remain there for as long as possible, despite the fact that the new equilibrium may be worse, over the total life cycle, for women."

Only very powerful social mores or laws can break prisoner's dilemmas like this, and laws we are surely not going to get. Reichert, a Catholic, sees the church's moral authority in this area being woefully under-utilised and calls for a movement of "new feminism." But while the beginnings of such a movement can certainly be found in the Catholic Church and other religious groups, there seems to be no corresponding secular insight into the role of contraception in female misery.

In a piece in *The Atlantic* magazine this week Caitlin Flanagan, enfant terrible of contemporary feminism, bewails the hook-up culture that girls reluctantly endure while they hope, like girls in every other era, for a real boyfriend and romance. She then talks about her mother and other "forward-looking" older women who helped Planned Parenthood promote birth control to teenage girls 20-something years ago.

As progressive as they were, says Flanagan, they would have been horrified by hooking up: "all of them, to a woman, believed in the Boyfriend Story. This set wasn't in the business of providing girls and young women the necessary information and services to allow boys and men to use and discard them sexually."

Oh, but they were. That is exactly what they were doing, albeit unwittingly. And that is what continues to draw girls into the prisoner's dilemma at ever younger ages. When are people like Flanagan going to stop groping around this elephant and take their blindfolds off?

## APPENDIX H

[*Mary Rose Somarriba is managing editor of First Things. The following appeared July 19, 2010, on First Things Online (www.firstthings.com) and is reprinted with permission.*]

### **You Can't Take the Back Alley Out of Abortion**

*Mary Rose Somarriba*

Saturday's *New York Times Magazine* features an optimistic cover story: "The New Abortion Providers" by Emily Bazelon. It tells the decades-long struggle of abortion advocates to become more accepted by the medical profession, because currently, the vast majority of abortions are done in isolated, high-volume, abortion-specialized clinics. The goal for abortion supporters now is "to recast doctors, changing them from a weak link to abortion to a strong one . . . with the hope that, eventually, more and more doctors will use their training to bring abortion into their practices . . . to integrate abortion so that it's a seamless part of health care for women—embraced rather than shunned."

"This is the future," writes Bazelon. "Or rather, one possible future. There's a long way to go," she exhorts.

But it's not the future. And it won't be—for the same reasons abortion hasn't really become accepted in all these decades it's been legal in America—indeed, for the very same reasons Bazelon cites in her article: Young OB-GYNs aren't keeping up with their predecessors in performing abortions ("in a 1992 survey of OB-GYNs, 59 percent of those age 65 and older said they performed abortions, compared with 28 percent of those age 50 and younger"); fewer OB-GYN residencies are offering abortion training ("in 1995, the number . . . fell to a low 12 percent"); donors who fund abortion-training residency fellowships are scarce (two of the only main fellowship grants come "from one foundation and from one family [of which] the donor has chosen to remain anonymous"); the number of doctors providing abortions out of their offices has dropped significantly ("doctors' offices now account for only 2 percent of the total number of procedures; hospitals account for barely 5 percent"); and the American public is more anti-abortion now than ever ("some poll numbers [show] that for the first time, more Americans call themselves pro-life than pro-choice—a shift that includes young people."). Basically abortion supporters are growing old and aren't being replaced as quickly by the younger generation. The dream to make abortion mainstream is dying.

With the facts as they are, the article's optimism for increased abortion acceptance in mainstream America is at best wishful thinking, at worst willful delusion. The publication of the piece can't help but seem a part of a pro-abortion agenda: trying to prop it up to be a successful, growing industry, supported by most of the public—despite the fact that it isn't.

America and abortion have always been an uneasy match. Unlike in Europe, where abortion was legislated slowly over time democratically and with regulations built in from the start, abortion on demand in America was legalized overnight with a court decision, which can help explain why it's still such a volatile, unresolved

issue in America today. The relationship of abortion and America was rushed and forced from the start, and it's been a hard, rocky road since. After a while the abortion supporters in this article start to sound like the infatuated person who's in denial that her partner really isn't right for her. She keeps thinking he'll change, or somehow the road will smooth out and things will work, even though things have never gone smoothly with him. When it comes to widely accepted abortion, the shoe never quite fit, for mainstream America, and, more than thirty years later, it doesn't look like it ever will. Still, as this article reports, abortion providers are determined to keep trying to force the foot in the shoe, trying desperately to make this relationship work.

But this is unfair, right? How can I say this? Well, really, because the abortion supporters say it themselves. They embody the single biggest indicator of delusion, which is this: In order to see things working out their way, they have to imagine the world different than it is. Bazelon describes one Planned Parenthood director who "looked out the window, at all the people who she wished could feel the urgency she does, and pointed out that change in medicine comes slowly."

And abortion supporters need this to keep going—they need to keep looking forward to the vision they have in mind. But what they lose along the way is a deeper understanding of why abortion isn't accepted in public and medical life. Rather than trying to understand why support for abortion dwindles, they turn away, they cover up, they try to hide the discomfiting part of abortion from patients, from nurses, from themselves. As Bazelon reports, one woman who's working to increase the reach of abortion training, asks residents when they're done with her program,

how they feel about doing the procedure at seven or ten or thirteen weeks. "Some will say, 'I'm perfectly okay going up to ten weeks, but after that I can see more of the fetus moving on an ultrasound, and I'm just not comfortable with that.'" She has set her own threshold at fourteen weeks. "I'm not an OB-GYN, and I'm not a surgeon, and that's as far as I can safely go," she said. "But to be honest with you, I haven't seen a lot of terminations past nineteen weeks. There's a part of me that's almost grateful that it's not even an option for me."

This abortion provider acknowledges that some "nurses don't want to assist her, and she tries to meet them halfway by doing abortions only up to nine weeks of pregnancy." "The early threshold means that no one on staff has to contend with recognizable fetal parts," explains Bazelon.

And there's the story of University of Michigan professor, Lisa Harris, who wrote an academic article two years ago about performing an eighteen-week abortion while she was eighteen-weeks pregnant. As Bazelon recounts it:

Harris described grasping the fetus' leg with her forceps, feeling a kick in her own uterus and starting to cry. "It was an overwhelming feeling—a brutally visceral response—heartfelt and unmediated by my training or my feminist pro-choice politics," she wrote. "It was one of the more raw moments in my life."

Somewhere in these women's stories lies the reason why abortion still causes hesitation for much of the American public; the reason why many women who support the availability of abortion in the abstract say they wouldn't do it themselves; the reason why many doctors who support abortion in polls don't perform them in their offices. But abortion supporters, like those quoted in Bazelon's article find it hard to look closer to understand these reasons and grapple with them. One abortion provider says, "We want to bring this discussion more to the forefront, but it's a bit dangerous." It could distract from the agenda; taking a closer look into what makes the American public hesitate about abortion could make *them* hesitate, and they don't want to risk that.

When they do hesitate, when they do find a moment when they feel uncomfortable or conflicted, as the women Bazelon interviews seem to show, they stop, reboot, and remind themselves why they're doing this: It's all for the protection of women. Despite all the pain, mainstream abortion access is important, supporters insist, because without it women may risk their lives attempting illegal abortions, like the woman in Kenya one practitioner witnessed, who came for medical attention "with a stick hanging out of her." Without access to legal abortions, we're back to back-alley abortions.

At least in America, women can legally have an abortion and survive. But in many ways, it's still in the back alley. The story Bazelon's article really tells us is just how impossible it is to take the back alley out of abortion. Abortion still isn't accepted in the American medical profession; it still isn't widely accepted in the American community; there will always be nurses or office staff who are uncomfortable assisting in abortions; there will always be doctors who don't feel comfortable having abortion providers in their medical group; there will always be the health risks that come with abortion that causes medical-malpractice insurance coverage to be so high that family practitioners don't want to afford it; there will always be protests by people who see fetuses as deserving the same protections by law as babies after birth. These are the things we still see, and in growing number, decades after abortion was made legal in this country. This issue is not about to be settled anytime soon, and abortion will never be mainstream.

The procedure may be legally available and it may be performed quickly, cleanly, and skillfully, but the hard fact that some abortion supporters have trouble seeing is: In many ways, abortion will always be in the back alley of public life. Just like, for many post-abortive women, it remains in the back alley of their minds: It's not a place they're proud of, not a place they'd like to linger, not a memory they'd like to revisit. It's a back alley they'd like to leave in the dust. And who can blame them? For many, all they want to do is turn the ignition, put it in reverse, screech the hell out of there, and not look back.



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