

the HUMAN LIFE REVIEW



SUMMER 2011

Featured in this issue:

William Murchison on Death Comes for Dr. Death
Paul Greenberg on Bernard Nathanson, R.I.P.
Mary Meehan on Why Liberals Should Be Pro-life
Stephen Vincent on Live Action Lies?
Mark S. Latkovic on Lying & the Love of Enemies
Edward Short on Teenage Daughters & the Great Work
Gregory J. Roden on . . . Bathsheba Spooner & “Personhood”
Donald DeMarco on From the Klan to the Court
Edmund C. Hurlbutt on The Duty Not to Know

BOOKNOTES

JOHN M. GRONDELSKI • MARY ROSE SOMARRIBA • DAVID YVES BRAUN
KATHRYN JEAN LOPEZ • JONATHAN V. LAST

Also in this issue:

Charmaine Yoest • William McGurn • Sherif Girgis • Wesley J.
Smith • Joe Carter • Michael J. New • Matthew Hennessey
David Mills • Chilton Williamson (FROM THE ARCHIVES: 1981)

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ABOUT FAITH . . .

. . . when the *Review*'s founding editor, J.P. McFadden, died in 1998, I wrote in this space that "I didn't know Jim when he didn't have cancer," that his illness "was part of the baggage he brought to our relationship." Not so with his wife Faith McFadden, our beloved senior editor who died, also of cancer, on August 30. We knew each other for over sixteen years; it was in the last two that she was stricken. I first met Faith in the spring of 1995 at a book party celebrating the publication of her memoir, *Acts of Faith*. Having recently gone to work for Jim, I was looking forward to meeting the woman at the other end of the fax machine—in those days Faith worked from home. In addition to writing and editing articles for the *Review*, she vetted the daily papers and forwarded stories she thought we should not only see but file away for future reference. (People who knew Faith might smile at that: She not only vetted for us, she supplied a wide circle of friends and acquaintances with clippings tailored to their individual interests. And was doing so until within a week of her death.) The party was at the Union League Club, an august building I'd lived across Park Avenue from since 1978 but had never before had occasion to enter. Faith herself was an august figure in a Georgia O'Keeffe sort of way—she possessed a strong and beautiful face, framed in her case by a platinum chignon, and animated by one of the most delightful smiles on the planet. She was wearing an intensely turquoise silk dress in which she more than held her own beside the formidably turned-out Pat Buckley, who had come along with her husband Bill to congratulate Faith on the book. Yes, Faith could be glamorous. On one of her last public outings, at a dinner honoring her daughter Maria this past spring, a proud but ailing mother braved a frigid ballroom with a white fur belonging to one of her tablemates draped around her shoulders—even sick she looked fabulous. In the years between these two events, Faith and I spent countless hours together in ordinary office time (and ordinary office clothes). She was a mentor and a matchmaker, not the boy/girl kind but the kind who puts like-minded people together, the kind who intuits that the world would be a better place if so-and-so and so-and-so were to have lunch. Some of my dearest friendships were launched by Faith, who as the years went by became a kind of surrogate mother for me. I don't mean to suggest that she regarded me as one of her children; rather I came to feel the kind of love from her that one can usually only expect from a mother—unconditional. As one who sees her own mother only a handful of times a year, this is a gift for which I will always be grateful. I suspect there are quite a few other friends of Faith who feel the same.

ANNE CONLON
MANAGING EDITOR



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INTRODUCTION

Senior editor William Murchison opens this issue with a reflection on the death (in early June) of “Dr. Death” himself, Jack Kevorkian. The man infamous (or famous, to supporters of assisted suicide and euthanasia) for his ghoulish commitment to helping others die “inhabited the right century all right—the century of the self,” the century that “ratified a woman’s right to ‘control’ her own body, at the probable expense of whatever life she might carry within herself.” Kevorkian fit in “nicely. His particular gig was encouraging society to let people kill themselves at will.” And yet he died as many do, in a hospital, where he had been admitted due to serious illness. He was forced to acquiesce to death rather than control it.

As Murchison writes, a “roadblock in writing of euthanasia is the undoubted misery the end of life can bring.” There is no use in pretending otherwise: “Life is hard. So is death.” Your editor knows this all too well; my mother Faith, our senior editor and widow of our founder, J.P. McFadden, died just a few days ago, on August 30th. In the past year, as she was diagnosed (for the second and third times) with cancer, she suffered greatly, through radiation, chemotherapy, major surgery and related pains too numerous to mention. Her emotional and spiritual struggles were immense. And all who loved her suffered with her.

We also witnessed her journey towards death, knowing that it was not ours or hers to control. Her last year of life held many blessings; what she cherished most was that her children rallied around her more than ever. She even said she’d had a wonderful Christmas (in the hospital!) because she felt so close to us. Her final days were spent at home, under the compassionate care of hospice, with her children at her side, and “love following upon love” pouring in from the legions who held her in their hearts.

Death is hard. Life is hard. But, contrary to the efforts of the culture this *Review* confronts, we know that we don’t own either. Life is a sacred gift, and with the gift comes a tremendous responsibility, to protect life, and also to protect natural death.

A little while after my mother’s cancer was diagnosed as terminal, I read a book I’d been hearing about to see if it might be something she’d find comforting. *Heaven Is for Real: A Little Boy’s Astounding Story of His Trip to Heaven and Back* was written by Welseyean pastor Todd Burpo (with Lynn Vincent) about his son, Colton. At 4 years old, Colton suffered a grave illness and was hospitalized; he later told his parents that while he was unconscious he had visited heaven. Over time several details about what he said he saw there stunned his parents, most movingly, to me, this: Colton said he saw his sister in heaven, that she ran forward and hugged him—not his older sister on earth, but the one who, Colton told his mother Sonia, “died in your tummy.” Sonia had miscarried a baby a year before

Faith Abbott McFadden



February 25, 1931 — August 30, 2011

“It is not possible, nor desirable, to close the door and lock out someone who has been a part of one’s life here and who is—as we believe—still with us, though in a different place. Our expectation and hope is that someday—as St. Thomas More put it—we will ‘merrily meet in Heaven.’”

—from “Loveletters,” Faith’s 1998 tribute to her husband, Jim.

(To read the obituary which appeared in the *New York Times*, and to see a video slide show of Faith & Jim’s life together, go to www.obits.dignitymemorial.com)

INTRODUCTION

Colton was born; he had never been told, nor had Sonia and Todd known the sex of the baby. Colton said his sister couldn't wait for her parents to come to heaven, and give her a name.

My mother read *Heaven Is for Real* and it did indeed offer her comfort. Of course life after death is a great mystery we cannot hope to understand; but little Colton's story, real or imagined, gives glimpses of a heaven that makes spiritual sense, a place where each life counts, even the unborn. The book caused me to think about my own two miscarried unborn babies, and my mother's three, my unknown siblings—and about all those lost to abortion. Life is sacred, life is a gift, and doesn't it make sense that, as my good friend Paul Greenberg wrote to me on hearing about my mother's death, "nothing good is ever lost." Even if mothers reject the gift of their unborn children, that is not the last word—there is life ahead, forgiveness and redemption. The children can be named.

For that reason, too, our efforts here and in the broader pro-life movement are never lost, are never in vain.

On October 27th, we will be hosting our 9th annual Great Defender of Life Dinner—honoring Paul Greenberg, editorial-page editor of the *Arkansas Democrat-Gazette*, whose column on the death of former abortionist Dr. Bernard Nathanson is reprinted on p. 11. Dr. Nathanson, a friend told me, is buried at the Gate of Heaven Cemetery in Hawthorne, NY, where my parents are now buried, together. How blessed was Nathanson to die in the light, after all the darkness of his life and his actions. How blessed are we to have the example of so many good people to light our lives going forward.

I ask pardon from our authors—I am not writing my usual introduction here, pointing out how excellent are their contributions. You, dear readers, will find that out for yourselves! We will be back with our usual format next issue. For now, we must adjust to a new life, without the earthly presence of our guiding star.

MARIA MCFADDEN
EDITOR

Death Comes for Dr. Death

William Murchison

Jack Kevorkian inhabited the right century all right—the century of the self.

It was the century that ratified a woman’s right to “control” her own body, at the probable expense of whatever life she might carry within herself.

It was the century that launched the movement to view sexual relationships as matters for the participants themselves to define, according to their own instincts and inclinations.

The late Dr. Kevorkian fit in nicely. His particular gig was encouraging society to let people kill themselves at will. Ironically, he lacked in the end the ability to do for himself what he sincerely wished all others might have the privilege of doing. His longtime lawyer and fellow crusader Geoffrey Fieger allowed at a press conference following Kevorkian’s death in a hospital that his client had needed a Kevorkian of his own. The doctor had gone to the hospital suffering, at age 83, from kidney and respiratory problems. “If he had enough strength to do something about it,” said Fieger, “he would have. Had he been able to go home, Jack Kevorkian would not have allowed himself to go back to the hospital.”

He would instead have . . . what? Declined further medical treatment, the ancient and continuing option of the dying? Or hooked himself up to a homemade machine such as he offered as an exit device to many of the 130 patients whose lives he helped end? Wait—possibly not the latter. He’d promised the Michigan court that sprung him from prison, where he was serving a sentence of 10 to 25 years for second degree homicide, to assist in no more suicides. Was there left in his conscience some room for the moral horror of self-extinction—a bill of goods he had peddled for years to the sick and susceptible, not to mention the school of voyeurs who can be counted on to brake for traffic accidents?

The present need isn’t to speculate about the unresolvable. The present need is to step aside from Dr. Kevorkian’s hospital bed and consider how this very strange man became a fixture of American culture in the late 20th century. He sold something that varied Americans wanted to hear, or thought they wanted. What made them susceptible to his pitch? The habit of believing themselves to be in charge of themselves and their destinies? Really, truly, unassailably in charge?

It doesn’t do to say: Along came Jack Kevorkian, and the terminally ill or despondent leapt as it were for joy, claiming a liberty never before imagined as a human right. Humans have been knocking themselves off for as long as humans

William Murchison writes from Dallas for Creators Syndicate and is a senior editor of the *Human Life Review*. His latest book is *Mortal Follies: Episcopalians and the Crisis of Mainline Christianity* (Encounter Books).

have been around to knock themselves off. What did King Saul do when the Philistines routed his army at Mount Gilboa? Took his sword “and fell on it,” as the First Book of Samuel relates. He wanted out, and no wonder, considering what the Philistines would likely have done to him had they caught him alive. What of weobegone lovers like Romeo and Juliet, Aida and Radames? I daresay everyone knows—more properly, “knew” at one time or another—someone who made off with himself under circumstances that remain mysterious to the present day. A high school classmate of mine did so during his freshman year in college. He was the first I knew. There have been many—too many—since then, including an intimate friend who deliberately drank himself to death, in spite of the high order of gifts he enjoyed.

Self-killing has been with us a very, very long time. The practice, that is. The principle is a different matter.

The principle of suicide as an option for the end of life is what Dr. Jack Kevorkian, in his brazen and eccentric way, worked to establish. Others labored before and labor still toward the same goal. The principle remains unfulfilled, but acceptance spreads. Two states—Washington and Oregon—have laws permitting “death with dignity.” A recent survey showed 77 percent support in Oregon for that state’s legislation, 70 percent in Washington. What is more, a new—if not, at age 83, exactly fresh—Kevorkian stalks the land: Dr. Lawrence Egbert, medical director for the Final Exit Network, which (according to Wikipedia) “offers counseling, support, and guidance in a successful suicide to individuals who are suffering. . . .”

The suicide principle matches up neatly with the womb-control principle: choice as the essential element at both polarities of life, the start and the finish. “Owner rights,” you might say, supersede the claims of others (however interested those others might be, as in the obvious case of abortion). Personal autonomy trumps all else. Very 20th century.

The 21st century may have shed some of the assertiveness of its predecessor century, or, as the ongoing remodeling of marriage to accommodate gay couples suggests, maybe it hasn’t. The end-of-life, start-of-life dogma inherited from that earlier time remains with us, all the same. *My life, my death*—such is the consideration that joins the dogma at the foundation. Kevorkian did no more than pick up on the rhetoric and claims abroad in the land since *Roe v. Wade*. He refashioned them to his own purposes, which were . . . well, what were they after all?

He was, in the argot of his time, a weird dude, a trained physician interested—morbidly, perhaps—in death. *The Economist* tells us that “after serving as a military doctor in Korea, he would carry out studies of the human eye just as life leaves the body (the blood vessels in the retina become invisible). He also advocated drawing blood from corpses for use in transfusions. By this time, hardly surprisingly, he was working as a pathologist.”

Certain insights came to him in the course of his work. What if death-row inmates (he wondered) agreed to donate their organs for re-use? And what if the state rewarded that acquiescence by executing the donors with anesthesia? (This was before the authorities began taking exquisite care not just to use “humane” means in executions but to make sure the prisoner feels less pain, perhaps, than his victim experienced.)

“Energized by the attention of lawmakers and the news media,” said Kevorkian’s New York *Times* obituary, “he became involved in the growing national debate on dying with dignity. In 1987 he visited the Netherlands, where he studied techniques that allowed Dutch physicians to assist in the suicides of terminally ill patients without interference from the legal authorities.”

At home—a man in his early 60s, with memories at the very least of a culture where whim was not everything—he advertised his availability for “death counseling.” He meant assistance in suicide. He devised a little instrument whereby the client (“patient” hardly seems the right word) could do the deed. There was the press of a finger on a button; it released a sleep-inducing chemical. A minute later, deadly, heart-stopping potassium chloride flowed into the veins. Dr. Kevorkian might have set the stage, but the client was the actor. The choice had been his own, nobody else’s—got that? Certainly it wasn’t the choice of Jack Kevorkian, who prescribed for his clients a regimen of statements of intent, medical consultations, and cooling-off periods—everything but a money-back-if-not-satisfied guarantee.

The first client rolled in and out in June, 1990—an Oregon teacher with Alzheimer’s. There were, by Kevorkian’s count, perhaps 129 more. “Patients from across the country,” according to the *Times*, “traveled to the Detroit region to seek his help. Sometimes the procedure was done in homes, cars, and campgrounds.” How much “dignity” attached to a death perfected in the back of Kevorkian’s 1968 Volkswagen van might seem questionable. Still, you paid your money and you took your choices, and this is America, right?

What unified this smallish but well-publicized clientele was a desire to quit life. Instinctively we say, “Poor, suffering souls!” The assumption is a large one. “Studies of those who sought out Dr. Kevorkian,” *The Economist* says, “. . . suggest that though many had a worsening illness, cancer perhaps or a neurological disease, it was not usually terminal. Autopsies showed five people had no disease at all.” It makes one wonder how rigorously Kevorkian followed the consultation regimen he prescribed. Did, in the end, the wish to die trump all other considerations?

The Economist continues: “Those who came to him were more likely to be women than men, often unmarried and typically ill-at-ease when talking to

doctors. Little over a third were in pain. Some presumably suffered from no more than hypochondria or depression.”

Anyway, they had chosen to die. They did it their way, to paraphrase Sinatra.

Well, then, so what? Were they not tired and worn down? A roadblock in writing of euthanasia is the undoubted misery the end of life can bring. I have heard, or heard of, too many sick people who affirmed the understandable desire just “to go.” Helping their like achieve such a wish gave Jack Kevorkian inner feelings of warmth—feelings not shared by the state of Michigan, which tried unsuccessfully four times to imprison him before succeeding thanks to a videotape that showed him injecting lethal drugs into an ALS sufferer. For this last act of—as Kevorkian saw it—mercy, he deservedly went to prison. “They must charge me,” he had told Mike Wallace, who showed the videotape on “60 Minutes.” “Either they go or I go.”

Everyone above the age of eight must have meditated at some time on the pains associated with too-long life and the cost of unduly prolonging it. We forget or ignore how much lighter are those pains than 500 years ago—or 200, 50, 10. The submissiveness of past generations to the ordeal of death must puzzle those who bother to think about it. Bad deaths were the norm in the “good old days”—tuberculosis, typhoid, apoplexy, yellow jack, miscarriage, infection. So were the means of pain-relief fewer and less convincing. Give him a swallow or two of this here drinking whiskey. Quick—a cloth. Tell her to bite down. Hard.

My father once told me of his grandmother’s death in the comparatively advanced year of 1920, just as the Jazz Age was starting up. Mattie Moseley Polk, age 75, kept to her room in the rambling old homeplace she shared with daughter, son-in-law, and grandchildren. The stench of cancer filled the house. (I had never known this about cancer—that it produced an odor.) There was little doctors could do for her at the last. She was of that tough, resourceful breed of Southern women who worked to raise their shattered region out of the dust following the War for the Confederacy. The likelihood of her summoning a Kevorkian to her bedside, if such a one was to be found in that traditional Texas town, was nil. She bore what she had been given to bear, as did her loved ones the whole time she suffered: which was not, in point of fact, long. My father had his own hard death from cancer half a century later amid the medical wonders then on display at the best hospitals in America. Life is hard. So is death.

Is it generally supposed that the men and women of, say, the 19th century, never yearned to give over their pain and suffering and to groan for the very last time? There were agonies as unendurable to those who endured them anyway as there were to the clients of Jack Kevorkian—those who really were sick and dying. An older view of the human drama informed the older society whose instruments of cure and relief were paltry compared to our own. Life was not ours: that

was to say, it was, but it wasn't. We hadn't made it with our own hands. We had received it. We were perforce the trustees, waiting to give an account of our stewardship.

The so-called "religious right" in modern American life gets a hard time from secularists who see life in proprietary terms, with never a thought for the obligations that stem from trusteeship. Still, older generations cleaved to a carefully nurtured, closely reasoned view of life as the intentional gift of God, bestowed in a spirit of inconceivable benevolence. To spurn a gift was never held by anyone as the highest form of good manners—or the safest action to take in a relationship of love. Let us call this the Christian view—the view of life as partaking, in all its various forms, of a sacred character.

The secularist view, by contrast, assigns to the possessors of life not total but certainly vast, if not endless, authority over that life. This means the bearer of an unborn life—wait, make that, in modern terms, a mute "product of conception"—has at her disposal the future of that same "product."

By the same logic, the sufferer at any stage in life—why just the end stage?—has the right to dispose of the goods. Why not? Whose business could it be, besides his own? The question plays on modern sensitivities. Yes, dear, yes; we hear you; we feel your pain and suffering. The modern age is exquisitely sensitive to pain of any kind—so sensitive as to want to relieve it promptly. One could call this sensitivity the sign of a healthy conscience. And so it is—save to the degree it encourages the notion of Self as the center of the human enterprise. Such a notion repels, in the end, summonses of every sort to community and connectedness. As Paul C. Vitz ably points out (*The Self: Beyond the Postmodern Crisis*; ISI, 2006), "the modern self decomposes society into isolated individuals and destroys social solidarity, neighborhoods, civic concern, and relationships of all kinds." Who dares tell *me* what to do? The implications of such a question seem plain enough.

The "life problem" in modern life is not a political problem to be resolved by elections and campaign rallies, far less by new laws and regulations, though these instruments can be appropriate props to public consensus. The life problem is theological, proceeding from the way humans understand their relationship and obligations to God, the creator of life. I do not know how it is possible to be surprised by human attempts to evade those obligations when the evaders profess trust mainly in—themselves. The sovereign conscience is the enemy: the conscience which, with no other views to consider besides its own, becomes a set of mere reflexes.

Reflexes of the sort that Dr. Kevorkian nurtured incessantly. He wanted it known that the desires of the sufferer were alone what counted. The state was wrong to forbid medical intervention that would end life along with the pain that too-long life

had brought. A good doctor—as Kevorkian certainly imagined himself to be—had the duty to step in and lend a hand. Kevorkian’s obituaries attributed to his interventions, and the publicity he thereby reaped, the birth of public interest in end-of-life care for the suffering by means of increased reliance on hospice care. The assertion seems somewhat odd. Kevorkian’s goal was less the palliation of suffering than the quick, decisive end of it. It would be pleasing all the same to think his semi-maniacal publicity-seeking had useful results. If interest in hospice care—the slow winding down of life, with as little pain as possible—was truly part of his legacy, that might be viewed at the very least as underlining heaven’s capacity to shape human ends, rough-hew them how we will.

An encouraging sign of humanity’s continuing attention to divine means and ends is the comparative failure of Kevorkianism to command the assent that demands for abortion rights received in the ’60s and ’70s, and still seem to receive, though there may be more nervousness now in that assent than formerly. The idea of mercy-killing, whether self-inflicted or not, has an ickiness about it that refuses to go away, possibly because the subject, unlike a child in the womb, has a concreteness of identity: a name, a history; so many years lived out, so many relationships forged. Too, the subject could be—well, *me!* Here the concept of modern selfhood makes less provision for indifference. Me. Imagine that. To kill or not to kill: The bathroom mirror can narrow as well as expand concepts of autonomy and self-infused power.

First the repair and then the restoration of the old norms concerning life seems a daunting task. But you never know. The experiments of the destroyers have not much edified or inspired the viewers of those experiments. I leave for consideration in other contexts the enterprise of turning around the culture’s view of abortion. The present topic is mercy-killing, whose most famous practitioner went to his grave without having altered in a fundamental way the understanding that the awful mysteries of life are not resolved in sterile hospital rooms or the backs of Volkswagen vans. As maybe, come to think of it, he knows now. You never can tell about mysteries.

The Doctor Who Saw What He Did

Paul Greenberg

The good doctor could have stepped out of a Louis Auchincloss short story. A fashionable but conscientious professional on the Upper West Side, his ideas, like his Brooks Brothers suits, were tailored to fit in. His ideals were those of the enlightened, modern urban America of his time, which was the mid-to-late 20th century. And he was always doing what he could to further them.

The doctor's political, medical and social convictions were much what one would have expected of a New York liberal, as clear as his curriculum vitae. The son of a secular Jewish ob/gyn, he would follow his prominent father's footsteps, graduate from McGill Medical College in Montreal, and start his practice in Manhattan. He was a quick study, whether absorbing the latest medical knowledge or political trend. Especially when it came to abortion.

Having no religious convictions about the sacredness of human life, he was defenseless against its growing and increasingly legal appeal. Indeed, he was soon a leader in Pro-Choice ranks. By his own count, Bernard Nathanson, M.D., was responsible for some 75,000 abortions—without a twinge of conscience intervening. Not back then. Not when he picketed a New York City hospital in his campaign for the legalization of abortion in New York State. Preaching what he practiced, Dr. Nathanson became a tireless spokesman for NARAL, the National Association for the Repeal of Abortion Laws. He had become a fanatic on the subject. As director of the Center for Reproductive and Sexual Health in Manhattan, where he routinely performed abortions and taught others to do the same, Dr. Nathanson knew of what he spoke. And never grew tired of rationalizing it. He wasn't destroying human life but just "an undifferentiated mass of cells." He was performing a social service, really. He was on a humanitarian mission. Then something happened. The something was quite specific—the newest EKG and ultrasound imagery. Always a follower of the latest scientific evidence, he couldn't deny what he was seeing. Political theory is one thing, but facts are facts.

By 1974, soon after *Roe v. Wade* had opened the way to his dream of abortion-on-demand, his eyes were opened. Literally. As he put it, "There is no longer any serious doubt in my mind that human life exists within the womb from the very onset of pregnancy." He changed his beliefs and his ways—and sides.

I can identify. When *Roe v. Wade* was first pronounced, I welcomed it. As a young editorial writer in Pine Bluff, Ark., I believed the Court's assurances that its

Paul Greenberg, the editorial-page editor of the Arkansas *Democrat-Gazette*, is a Pulitzer Prize winning syndicated columnist and the author of several books, including *No Surprises: Two Decades of Clinton Watching* (1996). This column ran April 11, 2011 and is reprinted with permission.

ruling was not blanket permission for abortion, but a carefully crafted, limited decision applicable only in some exceptional cases. Which was all a lot of hooley, but I swallowed it, and regurgitated it in editorials.

The right to life need not be fully respected from conception on, I explained, but grew with each stage of fetal development until a full human being was formed. I went into all this in an extended debate in the columns of the *Pine Bluff Commercial* with a young Baptist minister in town named Mike Huckabee.

Yes, I'd been taught by Mary Warters in her biology and genetics courses at Centenary that human life was one unbroken cycle from life to death, and the code to its development was present from its microscopic origins. But I wanted to believe human rights developed differently, especially the right to life. My reasons were compassionate. Who would not want to spare mothers carrying the deformed? Why not just allow physicians to eliminate the deformity? I hadn't yet come across Flannery O'Connor's warning that tenderness leads to the gas chambers.

Then something happened. I noticed that the number of abortions in the country had begun to mount year by year—into the millions. Perfectly healthy babies were being aborted for socio-economic reasons. Among ethnic groups, the highest proportions of abortions were being performed on black and, later, Latino women. Eugenics was showing its true face again. And it wasn't pretty.

Abortion was even being touted as a preventative for poverty. All you had to do, after all, was eliminate the poor. They were, in the phrase of the advanced, Darwinian thinkers of the last century, surplus population.

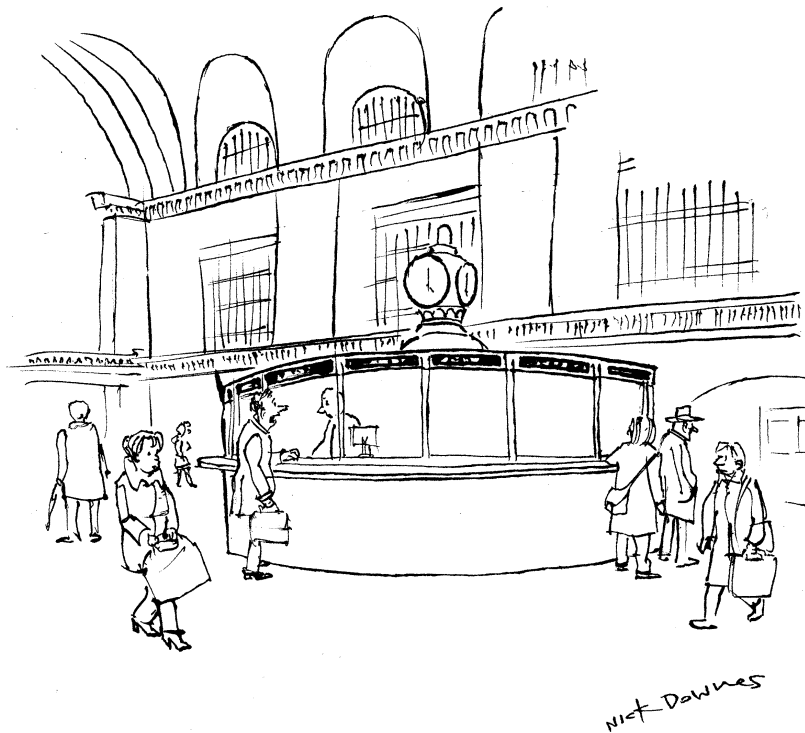
With a little verbal manipulation, any crime can be rationalized, even promoted. Verbiage precedes homicide. The trick is to speak of fetuses, not unborn children. So long as the victims are a faceless abstraction, anything can be done to them. Just don't look too closely at those sonograms.

By now the toll has reached some 50 million aborted babies in America since 1973. That is not an abstract theory. It is fact, and facts are stubborn things. Some carry their own imperatives with them. And so, like Dr. Nathanson, I changed my mind, and changed sides.

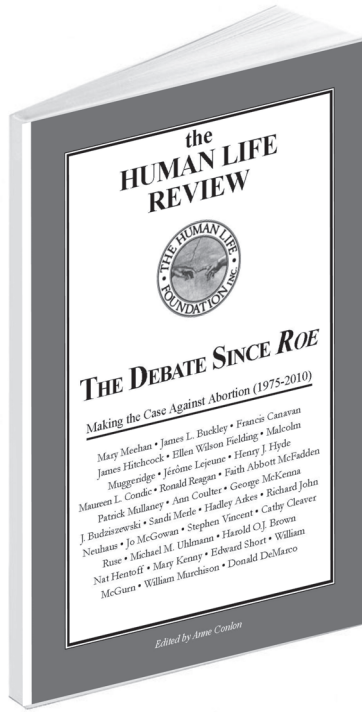
There is something about simple human dignity, whether the issue is civil rights in the 1960s or abortion and euthanasia today, that in the end will not be denied. And it keeps asking: Whose side are you on? Life or death?

Long before he died the other day at 84, Bernard Nathanson had chosen life. He became as ardent an advocate for life as he had once been for death. He wrote books and produced a film, *The Silent Scream*, laying out the case for the unborn, and for humanity. He would join the Catholic Church in 1996 and continue to practice medicine as chief of obstetrical services at Saint Luke's-Roosevelt hospital in Manhattan.

“I have such heavy moral baggage to drag into the next world,” he told the *Washington Times* in 1996. But he also had sought to redeem himself. He could not have been expected to do other than he did in his younger years, given his appetite for fashionable ideas. He was, after all, only human. Which is no small or simple thing.



“Am I coming or going?”



**“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.

Why Liberals Should Defend the Unborn

Mary Meehan

Why does the warm heart of liberalism turn to ice on the subject of unborn children? Why do so many liberals support abortion and *Roe v. Wade*? These are not easy questions to answer, given liberal convictions that should instead lead them to oppose abortion. As someone with an early background in antiwar politics, and who lived through the legalization of abortion, I will suggest reasons why so many liberals support it. Then I will offer many reasons why they should, instead, defend the unborn. Most of those reasons should also appeal to radicals and libertarians. I hope that all will consider my case, both in their personal lives and in thinking about public policy.

Whatever Happened to the Joy of Life?

In 1973, when the U.S. Supreme Court issued its decision in *Roe v. Wade*, liberals still revered the Court for its defense of civil rights and civil liberties in the 1950s and 1960s. They trusted the Court, and especially the three liberal justices who bore much responsibility for *Roe*: William Brennan, William O. Douglas, and Thurgood Marshall. They also had faith in the American Civil Liberties Union, which supported legal abortion. Led astray by institutions and people they relied on, many liberals did not follow their own better instincts. Nor did they do the hard thinking they should have done on a matter of life or death.

Gloomy European ideologies, left over from the 1800s and early 1900s, also influenced liberals and radicals of the *Roe* era. Too often those ideologies overrode earlier American views that were less rigid and more hopeful. Karl Marx's materialism deeply influenced the secular left; so did an essay by his colleague Friedrich Engels that was hostile toward marriage and indifferent to children.¹ Sigmund Freud's sexual theories led many liberals to assume that sexual restraint is psychologically harmful. Freudian faith—and our homegrown Alfred Kinsey—paved the way for the sexual revolution of the 1960s, which treated children as unwelcome byproducts of sex. That revolution gave many people, both men and women, a personal stake in abortion.

Thomas Malthus's obsession with population numbers and Francis Galton's ideas about breeding better humans through eugenics eventually led to a U.S. population-control movement that attained major power by the late 1960s. The more astute American eugenicists, such as Frederick Osborn and Alan Guttmacher, used euphemisms and humanitarian language to cloak their targeting of poor people and ethnic minorities for birthrate suppression. But Guttmacher, as president of

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Planned Parenthood (and former vice president of the American Eugenics Society), slipped up when he explained the advantage of using the United Nations to spread population control. “If you’re going to curb population,” he said, “it’s extremely important not to have it done by the damned Yankee, but by the UN. Because the thing is, then it’s not considered genocide. If the United States goes to the black man or the yellow man and says slow down your reproductive rate, we’re immediately suspected of having ulterior motives to keep the white man dominant in the world. If you can send in a colorful UN force, you’ve got much better leverage.”²

Eugenics also had substantial influence on European socialists and on leading U.S. scientists of a leftist persuasion (especially on the issue of preventing births of people who might be disabled). The socialists and scientists, in turn, influenced many American liberals. Some older, upper-class liberals took eugenics for granted, since its influence was strong in Ivy League universities they had attended and in other institutions of the “power elite.”³ Others on the left were just very naive. When population controllers argued for legalization and public subsidy of abortion on the premise that poor women should have access to what rich women had, many on the left fell for that approach—hook, line, and sinker. They went out and campaigned for abortion, viewing it as a matter of justice for the poor. It didn’t occur to them that they were doing the heavy lifting for eugenics.

The influence of Marx, Engels, Freud, Kinsey, Malthus, and Galton dealt blows to the earlier hope and optimism of American liberals and radicals. It conditioned them to a bleak view of humanity—a view at war with their better instincts and their principles.

The abiding influence of the gloomy Europeans also affected the new American feminism that arose in the 1960s.⁴ A higher and more hopeful view of human nature might have saved the new feminists from their disastrous alliance with abortion. Leaders of the first wave of American feminism, including Susan B. Anthony and Elizabeth Cady Stanton, had been resolutely anti-abortion. They saw it as harmful to women and deeply unjust to children. But many women of the 1960s and 1970s had deep anger and resentment over treatment they had received from individual men or from society: exclusion from many occupations and leadership positions; sexual harassment on the job or in the streets; being let go from jobs—or expelled from high schools—because they were pregnant; rape; and abuse by husbands or boyfriends. With the take-no-prisoners stance of the new feminism, they rolled out their heavy artillery and fired it at nearly everyone in sight. Their devastating crossfire did more damage to unborn children than to anyone else.

Many 1960s feminist leaders and writers believed women needed the ability to be un-pregnant at will in order to have equality, especially in employment. They saw abortion as a non-negotiable demand. All too many liberals accepted that

demand without asking whether abortion betrayed their key principles. While there was some debate about abortion in liberal/left publications in the 1970s and early 1980s, that debate was never as widespread as it should have been. On the secular left, it petered out as abortion forces gained enormous power within the Democratic Party.⁵ The remaining pro-life liberals were made to feel like Hendrik van Loon, an historian who died in the 1940s. Called “the last of the old-fashioned liberals,” he said the Smithsonian wanted to acquire him for its collection.⁶

There is a great need to engage liberals intellectually—and press them hard—on the ways that abortion breaks faith with basic liberal principles and traditions. We need the kind of robust dialogue and debate that should have occurred decades ago.

Back to Basics

Liberals respect science, and science confirms that a new human life begins at fertilization.⁷ Each of us started as a tiny embryo: the President of the United States, every justice of the Supreme Court, every member of Congress, the window-washer on a skyscraper, the teacher in the classroom, the lawyer in the courtroom, the farmer in the fields, the truck driver on the highways. We should think about our own humble origins, rather than disdain the tiny size of the newest humans. That tiny size is deceptive, for the embryo is a “*self-assembler*”⁸ who grows by leaps and bounds. We should view the complexity and rapid development of human embryos with awe and respect.

Defending those who cannot defend themselves has long been the pride of the left. When no one else would do it, liberals and radicals stood up for the little guys and the little gals: day laborers and domestic workers, abused children, African Americans and other minorities, elderly patients with dementia, the poor, the unloved and unwanted, the down-and-outers. The unborn are the most defenseless members of the human community. Others can cry out for help, and some can defend themselves, but unborn children cannot. To abandon them is to abandon the heart and honor of the left. Instead, liberals and radicals should stand by unborn children in the spirit of the old movement songs, “We Shall Not Be Moved” and “We Shall Overcome.”

Another liberal tradition, much neglected now, is optimism about the future and the possibility of progress. A gloomy and pessimistic view of life never characterized liberals at their best. Nor did they view children as liabilities, or as predestined for bad outcomes by poverty or disability. Instead, liberals saw children as a sign of hope. And progressives used to be the can-do people of our politics. They used to say, “Let’s change conditions that keep people down. *Right now!*” The anti-slavery movement, early feminism, the labor movement, and the civil rights movement did not begin in pessimism and despair—and certainly did not end there. Liberals and radicals *belong* on the side of life. They should remember

Lucinda Matlock and her love of life as she gathered flowers by Spoon River, “Shouting to the wooded hills, singing to the green valleys.”⁹ They should recapture the joy of life. They should see life as a grand adventure and have a sense of solidarity with *all* of their companions on the journey.

The right to life underlies and sustains every other right we have. To destroy human beings at the beginning of their lives is to destroy, with just one blow, all of their rights and liberties. Deprived of their entire future, the aborted unborn will never exercise the rights to free speech or a free press. They will never organize, vote, or run for office. They will never pursue or enjoy happiness. Civil libertarians who support abortion are profoundly wrong and are actually attacking their own principles. By undermining the right to life at its beginning, they endanger that right—and all other rights—for humans of all ages and conditions. Thus, within a dozen years of *Roe v. Wade*, many Americans supported the denial of lifesaving surgery for handicapped newborns. *Roe* also emboldened advocates of euthanasia for adults.

It is a mistake to argue that abortion must be legal because some disagree about when each human life begins. The scientific evidence for fertilization as the starting point is overwhelming. It is reactionary to appeal, as some abortion advocates do, to the mistaken embryology of Aristotle or medieval philosophers in order to promote doubt on the matter. In his *Roe v. Wade* opinion, Justice Harry Blackmun acknowledged that briefs in the case had outlined “at length and in detail the well-known facts of fetal development.” Then he proceeded to ignore those facts, saying the Court “need not resolve the difficult question of when life begins.” Yet that question had been resolved by science long before Blackmun wrote.¹⁰ All the Court had to do was take judicial notice of a fact already known and accepted. Liberals, given their respect for science, should be dismayed by the Court’s failure on this key point.

Intellectual Chaos

Some liberals claim that one can be a human being without being a person and that we have a right to kill “non-persons.” They fail to realize what a heavy burden of proof they must meet here, especially since they cannot even agree among themselves on when personhood begins. (Some favor weeks after fertilization, while others say months later, or even at birth.) Restating a classic ethical case in the plural: Hunters notice movement in a thicket, but don’t know whether it is caused by a deer or another human being. If they shoot without determining the facts, and kill a human, they are guilty of homicide. Many abortion supporters say they cannot find out, yet they are willing to shoot anyway.

Libertarians for Life founder Doris Gordon comments: “Abortion choicers try to get around the intellectual chaos on their side by saying, ‘Let the woman

decide.’ If one is free to decide whether another is a person, then whoever is strongest will do the deciding, and we all had better be thinking about our own prospects.” She also notes: “No sperm or ovum can grow up and debate abortion; they are not ‘programmed’ to do so. What sets the *person* aside from the *non-person* is the root capacity for reason and choice. If this capacity is not in a being’s nature, the being cannot develop it. We had this capacity on Day One, because it came with our human nature.”¹¹

One could even contend that it is worse to kill human beings before, rather than after, they develop the potential their nature gives them. At least the rest of us have the chance to use our potential. Whether we use it well or poorly, we have our day in the sun. As a recent March for Life sign asked: “You got a chance/Why can’t they?” And if we discriminate against others on the basis of intellectual ability, we reject the principle of equal rights. We establish two classes of humanity—those who have rights and those who do not. That dangerous precedent places many other people at risk: newborn babies, stroke survivors, people who are retarded or demented, accident survivors who have severe brain injuries. Liberals should ponder the words of the late Dr. Bernard Nathanson, who said that our era keeps “defining personhood upward so that fewer and fewer of us make the cut.” He warned that “everything, including your life, my friend, is up for discussion.”¹²

“All I Can Believe in Is Life”

The right to life is a bedrock right for secular people as well as religious believers. Perhaps non-believers should defend life even more ardently than believers do. Existence on earth should be more precious, not less, to those who believe it’s the only one we have. Nat Hentoff, the noted author and civil libertarian, said that “it’s a lot easier for an atheist—at least, this atheist—to be against abortion because all I have is life, this life. All I can believe in is life.” As Hentoff and others realize, attacking the right to life of a whole class of humans undermines that right—and thus all other rights—for everyone else as well. Non-believers also can rely on the Golden Rule, “Do unto others as you would have them do unto you,” which has been honored through the centuries by both religious and secular people. Bernard Nathanson, once an abortion doctor, was an atheist when he joined the pro-life side. He described the Golden Rule as “a statement of innate human wisdom” and applied it to abortion. “Looked at this way,” he said, “the ‘sanctity of life’ is not a theological but a secular concept, which should be perfectly acceptable to my fellow atheists.” A group called SecularProLife.org notes that the “human right to life is affirmed in the Declaration of Independence, the fourteenth amendment of the United States Constitution, and many other human rights documents. . . . You don’t have to be religious to join one of today’s most important human rights movements!”¹³

Religious people have done most of the organizing and speaking against abortion, and those opposed to them claim that they are trying to impose their religious beliefs on others. Yet most great movements for social change in American history, although separately justifiable on secular grounds, have been deeply rooted in the religious community. Quakers and evangelical Protestants led the anti-slavery movement.¹⁴ “Labor priests” were important to the rise of the labor movement. Quakers, Mennonites, mainline Protestants, Catholics, and Jews have provided much leadership for the peace movement. Religious people have been deeply involved in efforts to abolish the death penalty. Dr. Martin Luther King, Jr., and other ministers made the African American churches the backbone of the civil rights movement in the 1950s and 1960s. No one suggests that civil rights laws passed in that era are invalid because their advocates had religious motivation for their work. There should not be a different standard today for the religious motivation of many pro-lifers. The right to life is not the private property of any church. It is a universal human right.

Don’t Shove Her Out in Mid-flight!

Abortion is an escape from an obligation that parents owe their children. By bringing a child into existence, Doris Gordon notes, the parents place her in a state of dependence with a need for care. “Liberals believe we have enforceable obligations toward strangers, including other people’s children. Why not our own?” she asks. She says that conceiving and then aborting one’s child “could be compared to capturing someone, placing her on one’s airplane, and then shoving her out in mid-flight without a parachute.”¹⁵

Roe v. Wade does not acknowledge the obligation of parents to protect from harm the human beings they bring into existence. It ignores the father’s obligation. It treats the mother as having no responsibility for the child before birth, yet virtually total responsibility if she decides against abortion. “Maternity, or additional offspring, may force upon the woman a distressful life and future....Mental and physical health may be taxed by child care,” the *Roe* justices declared. Nothing there about the father’s joint responsibility for children and child care. If the justices were determined to act as a legislature rather than a court, they at least should have called for *more* male responsibility, not less.

They were remarkably negative toward parenting and children, referring to “the distress, for all concerned, associated with the unwanted child.”¹⁶ As the late Hispanic activist Grace Olivarez once said, “Those with power in our society cannot be allowed to ‘want’ and ‘unwant’ people at will....I believe that, in a society that permits the life of even one individual (born or unborn) to be dependent on whether that life is ‘wanted’ or not, all its citizens stand in danger.”¹⁷ The *Roe* justices also ignored the preamble to the Constitution, which speaks of securing “the blessings

of liberty to ourselves and our posterity.” Posterity means *all* descendants. Our Founders were deeply concerned about posterity, and they did not make deadly distinctions between wanted and unwanted children, nor between born children and “fetuses.” General George Washington, when perplexed about a problem during the American Revolution, said that what Congress wanted him to do, “I know no more than the child unborn and beg to be instructed.”¹⁸ This was just ten years before Washington presided over our Constitutional Convention.

“We Created a Monster”

The *Roe* justices should have upheld the right to life guaranteed by the Constitution’s Fifth and Fourteenth Amendments: that no person may be deprived of “life, liberty, or property, without due process of law.” Instead, *Roe* pushed local and federal governments into defending abortion clinics with police, federal court injunctions, and federal marshals. That is governmental action to deprive unborn human beings of their lives. So is the subsidy of abortion that many states provide. The governments involved do not hold trials to give due process to the unborn. After all, of what crime could they be accused? The crime of existing?

The *Roe* justices dealt briefly and unconvincingly with the Fourteenth Amendment, claiming that its use of “person” does not cover the unborn. This is where they established a legal policy of two classes of humanity. Under the 1857 *Dred Scott* decision, African American slaves were the non-citizens of our Constitution, but the *Dred Scott* majority at least called them a “class of persons.” Southern state laws offered slaves some protection. Although those laws were often ignored in practice, a few whites were sentenced to death for killing slaves.¹⁹ Under *Roe*, however, unborn children are non-persons, lacking even the right not to be killed.

Roe places women in an adversarial position toward their own children and, in a real sense, toward themselves. This is what Joan Appleton faced when she saw women go through emotional trauma over abortion. As head nurse of an abortion clinic in Virginia, Appleton was a committed feminist who saw her clinic work as a chance to help other women. Although she counseled women carefully, she saw many go through emotional ordeals over abortion. She said some came back to her, months or even years later, as “psychological wrecks.” This and other evidence led her to conclude: “We created a monster, and now we don’t know what to do with it.” Like Dr. Nathanson, Appleton joined the pro-life side.²⁰

When young men face a draft in wartime, this forces them to start adult life by deciding whether to kill other human beings. There is never a good time to make such a decision, but the volatile teen years are an especially bad time. Now young women face the same decision in their teens, often under strong pressure from others to destroy their own children. This sets them up for psychological problems. Dr. David Fergusson, a New Zealand professor, has led major studies of abortion’s

psychological effects on a group of young New Zealand women. In 2006 he and his colleagues reported that those who had abortions had higher rates of depression, anxiety, and thoughts of suicide than other women in the group. The rates were especially high for those who were 15 to 18 years old. Fergusson, who described himself as pro-choice and “an atheist and a rationalist,” acknowledged on a television program that he was surprised by results of his study. Another Fergusson-led study in 2008 found that women in the group who had abortions “had rates of mental health problems that were about 30% higher than rates of disorder in other women.”²¹

Pro-Life Feminists, Then and Now

But what about the argument that women need abortion availability in order to have true equality with men? This was not the view of American feminists of the 1800s such as Susan B. Anthony, Elizabeth Cady Stanton, and Elizabeth Blackwell. Writer Mary Krane Derr and her colleagues show that early feminists thought men—through unreasonable sexual demands, abandonment, or outright coercion—bore the greatest responsibility for abortion. But they also show that those feminists did not condone abortion or see it as a good for women. Nor did they say it should be legalized. The Anthony-Stanton newspaper, *The Revolution*, attacked abortion and those who practiced it.²² Elizabeth Blackwell decided to become a physician partly in response to “Madame Restell,” a wealthy abortionist who plied her illegal trade in New York City. “That the honorable term ‘female physician’ should be exclusively applied to those women who carried on this shocking trade,” Blackwell later wrote, “seemed to me a horror...an utter degradation of what might and should become a noble position for women.” She added that “I finally determined to do what I could ‘to redeem the hells’ and especially the one form of hell thus forced upon my notice.”²³

The early feminists thought equality, both within marriage and in society, was the best preventive of abortion. Today’s pro-life feminists carry on that tradition when they say we should change society to accommodate mothers, rather than vice-versa. Serrin Foster, president of Feminists for Life of America, works hard to spread this view around the country and on Capitol Hill. She is keenly aware of economic pressures that push women toward abortion. She knew that such pressures resulted in abortion for Kate Michelman, former president of NARAL Pro-Choice America. That knowledge, Foster said, “inspired me personally to work for child-support enforcement” when Congress debated welfare reform some years ago.²⁴ Her group works to make college life easier for women who are pregnant and students who are caring for small children. The Feminists for Life have a can-do approach, and they are willing to work with people on all sides of the abortion issue to make life better for women and their children.

How About the Dads?

How much attention did *Roe v. Wade* pay to the interest of fathers in the lives of their unborn children? Precisely one footnote, which said that they were not discussing “the father’s rights, if any exist in the constitutional context. . . .” In later cases, the Court struck down a state requirement for a husband’s consent before an abortion could be done—and then even a requirement that a husband be *notified* of his wife’s intent to have an abortion.²⁵

A man still has an ethical responsibility to protect the children he helps bring into existence, yet he cannot stop an abortion doctor from killing them. He cannot even try to persuade his wife or girlfriend not to have an abortion, if she decides not to tell him about the child’s existence. Victoria Thorn, who has counseled many people after abortion, once described the mixed signals we send to fathers: “You have no rights. . . . you were a sperm donor; now be on your way. Now, on the other hand, if she wants this baby, then we’ll be after you for child support. But in the meantime, we won’t let you bond, because there’s always this chance she’s gonna do away with your baby.”²⁶

This places a man in a terrible situation and often leads to frustration, deep anger, and grief. It sometimes leads to guilt, if he tries to dissuade a woman from abortion, but doesn’t try quite hard enough. Too often his family and friends do not urge him to do so—or even urge him to support the abortion. A writer who had been involved in abortion as a young man said there had been relentless pressure for the abortion on his girlfriend and himself, and he could not recall any voices on the other side. No one told him, he said, that “you have been a boy . . . now be a man.”²⁷ Other men, thinking of 18 years of child support, manipulate or pressure women to have abortions. Some use one of the oldest and most effective forms of coercion: the threat or reality of abandonment. As one man said, “Too many men have sex for entertainment, sex for experience, sex for status, sex out of boredom, sex to make you feel like ‘a hell of a man.’ If a man has sex and abandons the woman, and the woman abandons her child, who’s the real abortionist?”²⁸

That’s a good question, and here’s another: Why should we worship at the shrine of choice? “Abortion” is a terrible word, and a terrible reality, so we should not be surprised that its advocates prefer to say “freedom of choice,” “pro-choice,” and “the choice issue.” Yet the glory of humanity does not consist in making choices as such, but in making them wisely and well and in a way that avoids harming other people. We should not fear being called “anti-choice” when we support laws that are needed to prevent great harm to others, especially when that harm will end their lives. Ginny Desmond Billinger, a pro-life feminist, once wrote an essay called “Confessions of an Anti-Choice Fanatic.” She was anti-choice not only on abortion, but also on spousal and child abuse, drunk driving, unsafe disposal of hazardous

wastes, and more.²⁹ A little reflection shows that liberals are anti-choice on many issues. They should add abortion to the list.

Wouldn't You Prefer a Nonviolent Solution?

Antiwar liberals should realize that abortion is another kind of warfare, but one that does not even pretend to abide by just-war standards. It kills civilians only—the youngest, weakest, and most defenseless civilians. As an army veteran once wrote, in abortion “the enemy isn't shooting back.”³⁰ Weapons of war such as napalm and cluster bombs appall many liberals—and rightly so. They should also be dismayed by medical instruments that are used for killing instead of healing. Years ago, a supporter of legal abortion described how she felt when she was about to *witness* one. The cart by the operating table, she said, “is full of gleaming, vicious-looking metal instruments. My heart begins to pound. This is for real. These people are not kidding. . . .”³¹ Both war and abortion have euphemisms to cloak reality: “softening up” or “taking out” an adversary, “interrupting” a pregnancy or removing “products of conception.” Abortion clinics have bland names such as Choice Medical Group, Healthy Futures for Women, and Women's Health Services.

Yet the camouflage words do not always help clinic workers. Involved in the daily and methodical destruction of other human beings, many are traumatized by their work. Some have terrible nightmares and depression; some consider suicide; and many turn to alcohol or other drugs. Those who must reassemble tiny body parts, to guard against maternal infection from retained parts, have special problems. It was this work that led Mississippi physician Beverly McMillan to say that “I just couldn't look at the little bodies anymore.” She joined the pro-life movement. Nita Whitten, working as a secretary in a Texas abortion clinic, became very depressed. “I took drugs to wake up in the morning,” she reported later. “I took speed while I was at work. And I smoked marijuana, drank lots of alcohol. . . this is the way that I coped with what I did.”³² Rachel MacNair, a psychology expert, has studied severe reactions suffered by people who have killed others in abortion, war, and executions. She believes there is a good explanation for those reactions. “It isn't merely that killing is not in our nature,” MacNair says. “It is *against* our nature.”³³

For all of these reasons, peace people should be in the front ranks of the pro-life movement. They should be asking, “What are *nonviolent* solutions to difficulties that pregnancy presents? What can we do to advance those solutions and create others?”

Targeting Poor Children and Minorities

Anyone concerned about civil rights should be alarmed by abortion as lethal discrimination against poor people and ethnic minorities. Eugenicists long have

targeted both groups for population control. The 1956 membership list of the American Eugenics Society could have been called *Who's Who in Population Control*. It included sociologist Kingsley Davis, ethicist Joseph Fletcher, biologist Bentley Glass, birth-control leader Margaret Sanger, physician Alan Guttmacher, and other movers and shakers in public policy. Some of them later suggested coercive population control, and many supported abortion as a quick way to reduce birthrates. Most were white males who didn't care about adverse health effects on women of the early birth control pill, IUDs, and surgical abortion. They were not worried about women's health or about ethics; they just wanted to get the numbers down. Some had major influence on the legalization of abortion.³⁴

But where eugenicists of the 1920s were blunt about their disdain for the poor, their heirs of the 1970s presented abortion as a *good* for poor women. In 1971 Dr. Guttmacher (by then the president of Planned Parenthood) wrote Governor Nelson Rockefeller of New York to support Medicaid funding of abortion for poor women. Guttmacher said a recent cut-back of such funding was "grossly discriminatory against the least privileged citizens of this State." He asked, "What are such poor souls to do in the future?" Then he added, as abortion advocates often did—and many still do—an economic argument for eliminating poor children: "To save a few million dollars now the State must pay far more eventually for prenatal care and delivery and the eighteen-year annual upkeep of children likely to become financial burdens of the State."³⁵

Planned Parenthood leaders fought hard in Congress and the federal courts for subsidized abortion. When they lost at the federal level, they fought and often won in state courts. Naive liberals did much to aid those fights. So did the American Civil Liberties Union. Aryeh Neier, who was the ACLU executive director in 1970-78, later referred to "whites who were eager to eliminate or limit the number of welfare mother babies out of an anti-black feeling" and acknowledged that "I dealt with some supporters of abortion who are very much in favor of abortion for exactly that reason." Interviewed by one of his law students at New York University, Prof. Neier said two foundations, one in Pittsburgh and one in Missouri, supported abortion efforts because of such racist views. "I don't regard it as dirty money," he said, "so long as people don't try to impose conditions on what you can do with the money . . . So as long as they don't try to impose restrictions, I will always take the money."³⁶

The abortion rate for poor women is far higher than the rate for middle-class and upper-class women. In the year 2000, the abortion rate for African American women was nearly four times that for white women, according to a survey report by—ironically—the Alan Guttmacher Institute. The authors estimated that of all pregnancies among black women in 2000, 43 percent led to abortion.³⁷ Civil rights activist Dick Gregory was right, many years earlier, when he called abortion

“a death sentence upon us.” The late Fannie Lou Hamer, a great civil rights activist in Mississippi, shared his view.³⁸ Many African American women have suffered bitter regret and depression as a result of abortion. Pamela Carr had one when she was just 17 and headed toward college. “The anguish and guilt I felt were unbelievable,” she wrote later in *Ebony*. “I became deeply depressed. . . . Over time I was able to forgive myself and go on with my life, but always with the knowledge that I had swept away a part of my future which could never be recovered.” Her question about the unborn: “How many more of them have to die before we realize that abortion is not a solution but another, more troubling, problem plaguing our community?” Arlene Campbell had a legal abortion that nearly killed her: “Depression became a major part of my daily existence. . . . I now speak of life, but for many years all I could think of was death.”³⁹

Disability Rights for the Unborn

Abortion also involves lethal discrimination against children with disabilities. Some writers suggest that a “new eugenics” produced prenatal testing and abortion of the handicapped unborn. Actually, it was the same old eugenics that for decades supported compulsory sterilization of the “feebleminded.” After the Nazi era, though, U.S. eugenics leaders realized they had to be more subtle. Frederick Osborn, the shrewd chief of the American Eugenics Society, was co-founder and first administrator of the Population Council. He used the Council to advance all of his eugenic interests. In addition to other population-control programs, the Council funded medical-genetics fellowships for students who were recommended by a committee of Osborn’s eugenics society. His society also promoted heredity counseling, which it called “the opening wedge in the public acceptance of eugenic principles.”⁴⁰

Osborn supported the new American Society of Human Genetics (ASHG), which other eugenicists had started, and served as that group’s vice president in 1958. Many other ASHG leaders and members were deeply involved in developing or advocating prenatal testing for fetal handicaps such as Down Syndrome and spina bifida. But prenatal testing would have meant little had abortion remained illegal. Big money took care of that problem: In 1962 a project to develop a Model Penal Code for the states, funded by the Rockefeller Foundation, proposed the legalization of abortion for fetal disability and other hard cases.⁴¹ Several states followed its advice; then *Roe* made special exceptions unnecessary.

It is tragic that the disability rights movement was still getting off the ground in the 1970s. Had it become a major force decades earlier, eugenics might not have developed into such a powerful monster. But the disability rights movement came of age after *Roe v. Wade*, and it includes both people who support *Roe* and people who oppose abortion and are appalled by its use as a tool of eugenics.

Joseph P. Shapiro, who authored a history of the movement, said it has dealt with abortion “largely by keeping its distance.”²⁴²

Liberals usually side with people who have disabilities, insisting that they have equal rights. That’s where liberals and disability rights activists should be on the issue of eugenic abortion. They should remind everyone that most of us have one or more disabilities, ranging from poor eyesight to severe problems, and that we will have more as we grow older. As disability rights activist Mary Jane Owen has said, “developing a few glitches, developing impairments, is *not* the end of the joy of life,” and “we can enjoy life learning new functions and new ways of being.”²⁴³

Protect the Children, and “Live Lightly on the Earth”

Liberals should realize, too, that abortion harms children who are not aborted, but hear about abortion when they are very young. One psychiatrist reported, “I have had children who suffer from night terrors and who fear to fall asleep because they overheard their parents discussing an abortion they had or planned to have. These children fear they may be gotten rid of the next time they make their parents angry.”²⁴⁴ Drs. Philip G. Ney and Marie A. Peeters-Ney wrote that some children suffer from “survivor guilt” because they know that one or more siblings were aborted. Children who know their parents considered aborting *them*, the doctors suggested, tend to be fearful and over-eager to please. And the Neys quoted someone who had cancer at the age of twelve: “My mother told me she was going for prenatal diagnosis to make sure the baby was alright [sic]. I knew what would happen if the baby wasn’t. One night I thought perhaps if I did not get better the doctors would get rid of me too. I never trusted my mother after that. In actual fact I never trusted anybody after that.”²⁴⁵

Abortion also goes against the harmony with nature that environmentalists celebrate and encourage. Childbirth, after all, is the natural way to end a pregnancy. Why, then, do so many environmentalists promote abortion? Many do so because they see all human beings—except, perhaps, themselves and those they love—as threats to the natural environment. They assume that the fewer people there are, the less pollution and resource exhaustion we will have. Some of their messages make people feel guilty to be alive or to have children. Yet environmentalists overlook what seems to be a perverse result of population control: The fewer people there are, the more *things* each person wants. Despite today’s norm of two children per family, American houses are larger than ever before. Many tiny families rattle around in mini-castles—and drive huge, gas-guzzling vans and SUVs. Where a family used to have one television, many now have one per bedroom, plus others scattered around the home. Has all of this led to greater happiness? That seems doubtful, given how hard people work to buy all their stuff, to take care of it, and then to buy even bigger houses to store it all. “Live lightly on the earth” is a

splendid environmental slogan, and that is where our emphasis should be. Instead of eliminating people, we should return to simpler and less stressful lifestyles.

Liberals, like most Americans, tend to acquire too much stuff. They also have inherited much ideological debris from recent generations of the left. Neither kind of junk makes them happy. If they discard both, they will have plenty of room for children and for life. Then they might, like Lucinda Matlock, shout to the wooded hills and sing to the green valleys.

NOTES

Many thanks to Doris Gordon for helpful suggestions on the text.

1. Friedrich Engels, "The Origin of Family, Private Property, and the State," in Robert C. Tucker, ed., *The Marx-Engels Reader*, 2nd ed. (New York: W.W. Norton, 1978), 734-59.
2. William Stump, "Dr. Guttmacher—Still Optimistic about the Population Problem," *Baltimore Magazine* 63, no. 2 (Feb. 1970), 25 & 50-53, 51-52. Guttmacher was listed as vice president of the American Eugenics Society in issues of the *Eugenics Quarterly* from 1956-63.
3. Diane Paul, "Eugenics and the Left," *Journal of the History of Ideas* 45, no. 4 (Oct.-Dec. 1984), 567-90; Mary Meehan, "Eugenics and the Power Elite," *Social Justice Review* 88, nos. 11-12 (Nov.-Dec. 1997), 167-70; Mary Meehan, "The Road to Abortion," *Human Life Review* 24, no. 4 (Fall 1998), 76-89, and vol. 25, no. 1 (Winter 1999), 68-82; Mary Meehan, "What's Wrong with the Science Establishment?" *ibid.*, vol. 26, no. 4 (Fall 2000), 63-85; and Gunnar Broberg and Nils Roll-Hansen, ed., *Eugenics and the Welfare State: Sterilization Policy in Denmark, Sweden, Norway, and Finland*, 2nd ed. (East Lansing, Mich.: Michigan State University Press, 2005).
4. On Marxist influence, see Daniel Horowitz, *Betty Friedan and the Making of The Feminine Mystique* (Amherst, Mass.: University of Massachusetts Press, 1998); and Shulamith Firestone, *The Dialectic of Sex* (New York: William Morrow, 1970). My thanks to writer Dale O'Leary for references to *The Dialectic of Sex* and the Engels essay cited in n. 1.
5. To the extent there was debate on the left, it was mainly in religious publications. Exceptions included debates provoked by: Juli Loesch and others, "Abortion: A Question of Survival?" *WIN*, 1 Aug. 1980, 15-28; Mary Meehan, "Abortion: The Left Has Betrayed the Sanctity of Life," *The Progressive*, Sept. 1980, 32-34; and Nat Hentoff, "How Can the Left Be Against Life?" *Village Voice*, 16 July 1985, 18 & 20.
6. Van Wyck Brooks, *An Autobiography* (New York: E. P. Dutton, 1965), 379.
7. In the case of identical twins, a second human life begins when the first embryo divides. Triplets and higher multiples can be identical, fraternal, or a combination. See Keith L. Moore and others, *Before We Are Born*, 7th ed. (Philadelphia: Saunders/Elsevier, 2008), 2 & 88-90.
8. John Walker, "Power and Act: Notes Towards Engaging in a Discussion of One of the Underlying Questions in the Abortion Debate," *International Journal of Sociology and Social Policy* 19, nos. 3/4 (1999), 54-64, 57 (available at www.l4l.org; go to "Library").
9. "Lucinda Matlock" in Edgar Lee Masters, *Spoon River Anthology* (New York: Collier Books, 1962), 239. Masters based the fictional Matlock on one of his grandmothers (*ibid.*, p. 8).
10. *Roe v. Wade*, 410 U.S. 113 at 156 & 159 (1973); Alan Frank Guttmacher with Ellery Rand, *Life in the Making* (New York: Viking, 1933), 3; and George W. Corner, *Ourselves Unborn: An Embryologist's Essay on Man* (New Haven: Yale, 1944; reprint, Hamden, Conn.: Archon Books/Shoe String Press, 1972), 1. Corner wrote, "When a man is born, he is already nine months old."
11. Doris Gordon, "Abortion and Rights: Applying Libertarian Principles Correctly," *International Journal of Sociology and Social Policy* 19, nos. 3/4 (1999), 97-127, 112 & 111. This is the best, richest, and clearest philosophical article on abortion that I have ever read. It is available on the Libertarians for Life website, www.l4l.org (go to "Library").
12. "March for Life 2011 Photos," www.meehanreports.com, accessed 28 March 2011; and Bernard Nathanson, *The Hand of God* (Washington: Regnery, 1996), 4 & 5.
13. Nat Hentoff, "You Don't Have to Believe in God to Be Prolife," *U.S. Catholic*, March 1989, 28-30, 28; and Bernard N. Nathanson with Richard N. Ostling, *Aborting America* (Garden City,

- N.Y.: Doubleday, 1979), 227. (Nathanson eventually joined the Catholic Church.) See, also: "Is Abortion a Religious Issue?" www.secularprolife.org (under "Publications"), accessed 30 March 2011.
14. On evangelicals' role in the anti-slavery movement, see Benjamin P. Thomas, *Theodore Weld, Crusader for Freedom* (New Brunswick, N.J.: Rutgers, 1950); Henry Mayer, *All on Fire: William Lloyd Garrison and the Abolition of Slavery* (New York: St. Martin's, 1998); and Bertram Wyatt-Brown, *Lewis Tappan and the Evangelical War Against Slavery* (Cleveland: Case Western Reserve, 1969).
 15. Doris Gordon, telephone conversation with the author, 15 April 2011; and Gordon (n. 11), 120.
 16. *Roe v. Wade* (n. 10) at 153.
 17. "Separate Statement of Grace Olivarez" in U.S. Commission on Population Growth and the American Future, *Population and the American Future* (Washington: U.S. Government Printing Office, 1972), 160-64, 161 & 163.
 18. George Washington to Benjamin Harrison, 19 Aug. 1777, in John C. Fitzpatrick, ed., *The Writings of George Washington* (Washington: U.S. Government Printing Office, 1931-44), vol. 9, 95-96.
 19. *Roe v. Wade* (n. 10) at 156-59; *Dred Scott v. Sandford*, 60 U.S. (19 Howard) 393 at 403, 404, 407, 409, 411 & 422 (1857); and Kenneth M. Stampp, *The Peculiar Institution* (New York: Knopf, 1956), 217-24.
 20. Joan Appleton, Remarks at "Meet the Abortion Providers" conference, 3 April 1993, sponsored by the Pro-Life Action League, Chicago, Ill., audio recording.
 21. David M. Fergusson and others, "Abortion in Young Women and Subsequent Mental Health," *Journal of Child Psychology and Psychiatry* 47, no. 1 (2006), 16-24, 19; Australian Broadcasting Corporation, "Higher Risk of Mental Health Problems After Abortion: Report," transcript of 3 Jan. 2006 broadcast; and David M. Fergusson and others, "Abortion and Mental Health Disorders: Evidence from a 30-Year Longitudinal Study," *British Journal of Psychiatry* (2008), 444-51, 449.
 22. *The Revolution*, 5 Feb. 1868, 65; 12 March 1868, 146-47; 26 March 1868, 177 & 178; 7 May 1868, 279; 28 May 1868, 327; 8 July 1869, 4; 2 Sept. 1869, 138; 2 Dec. 1869, 346.
 23. Mary Krane Derr and others [ed.], *ProLife Feminism: Yesterday and Today*, 2nd ed., rev. ([Kansas City, Mo.]: Feminism and Nonviolence Studies Association, 2005), 36. Blackwell apparently found the phrase "to redeem the hells" in the writing of Emanuel Swedenborg.
 24. Serrin Foster, interview by author, 22 Jan. 1998, Washington, D.C., transcript.
 25. *Roe v. Wade* (n. 10) at 165 n. 67; *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 at 67-72 (1976); and *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 at 887-98 (1992).
 26. Victoria Thorn, telephone interview by author, 12 Dec. 1997, transcript.
 27. Richard Cowden Guido, "Papa's Post-Operative Blues: A Father Looks at Abortion," *ALL About Issues*, June-July 1989, 43.
 28. "Name Withheld," letter to the editor, *P.S.*, Dec. 1980, 7.
 29. Ginny Desmond Billinger, "Confessions of an Anti-Choice Fanatic," in Gail Grenier Sweet, ed., *Pro-Life Feminism: Different Voices* (Toronto: Life Cycle Books, 1985), 77-78.
 30. Phil McCombs, "Remembering Thomas," *Washington Post*, 3 Feb. 1995, D-5.
 31. Magda Denes, *In Necessity and Sorrow* (New York: Basic Books, 1976), 213.
 32. Mary Meehan, "The Ex-Abortionists," *Washington Post*, 1 April 1988, A-21; and Nina Whitten, Remarks at "Meet the Abortion Providers" conference, 18 Feb. 1989, sponsored by the Pro-Life Action League, Chicago, Ill., audio recording.
 33. Rachel M. MacNair, "Understanding How Killing Traumatizes the Killer," in Rachel M. MacNair and Stephen Zunes, ed., *Consistently Opposing Killing* (Westport, Conn.: Praeger/Greenwood, 2008), 39-46, 45.
 34. American Eugenics Society, "Membership List, 1956," *Eugenics Quarterly* 3, no. 4 (Dec. 1956), 243-52 (Margaret Sanger listed under her married name of Margaret Sanger Slee, 249); Meehan, "The Road to Abortion" (n. 3); and Rebecca Messall, "The Long Road of Eugenics: From Rockefeller to *Roe v. Wade*," *Human Life Review* 30, no. 4 (Fall 2004), 33-74.
 35. Alan F. Guttmacher to Nelson Rockefeller, 12 April 1971 [mimeographed copy distributed to media], Alan Frank Guttmacher Papers, H MS c155, box 4, f. 45, Harvard Medical Library in the Francis A. Countway Library of Medicine, Boston, Mass.
 36. Aryeh Neier, interview with Thomas J. Balch, 3 Nov. 1979, in Balch's "Convincing the Courts on Abortion," a paper for Prof. Neier's "Litigation and Public Policy" course [New York University

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- School of Law], Fall 1979, appendix, 12-13. See, also, Mary Meehan, "ACLU v. Unborn Children," *Human Life Review* 27, no. 2 (Spring 2001), 49-73.
37. Rachel K. Jones and others, "Patterns in the Socioeconomic Characteristics of Women Obtaining Abortions in 2000-2001," *Perspectives on Sexual and Reproductive Health* 34, no. 5 (Sept.-Oct. 2002), 226-35, 228.
 38. Barry Farrell, "Running with Dick Gregory," *Ramparts*, Aug.-Sept. 1975, 26 ff., 54; and Kay Mills, *This Little Light of Mine: The Life of Fannie Lou Hamer* (New York: Dutton/Penguin, 1993), 260-61 & 274.
 39. Pamela Carr, "Which Way Black America? Anti-Abortion," *Ebony* 44, no. 12 (Oct. 1989), 134 ff., 138; and Arlene Campbell, "A Shattered Life," Black Americans for Life newsletter, Washington, D.C., Spring 2005 [3].
 40. American Eugenics Society, *Five-Year Report of the Officers: 1953-1957* (New York, n.d.), 9-11, 10.
 41. Mary Meehan, "The Triumph of Eugenics in Prenatal Testing," *Human Life Review* 35, no. 3 (Summer 2009), 28-40, 33-36.
 42. Joseph P. Shapiro, *No Pity* (New York: Times Books/Random House, 1993), 278.
 43. Mary Jane Owen, telephone interview by author, 31 July 1992, transcript.
 44. Edward J. Sheridan, interview by John G. Gatewood, *Georgetown University Right to Life Journal* 2 (Fall 1981), 1-5, 1.
 45. Philip G. Ney and Marie A. Peeters-Ney, *Abortion Survivors* (Victoria, B.C., Canada: Pioneer Publishing, 1998), 26-27 & 33.



Live Action Lies?

Stephen Vincent

Imagine this scenario:

A city is plagued by a “Phantom Racer,” a speedy driver who emerges suddenly from the mist and runs down children as they cross the street. Parents’ complaints go unheeded and the Phantom is allowed to roam the city, killing at will, with the tacit approval of the mayor and police. But a group of young people, the brothers and sisters of the slain children, have an idea. Suspecting that the Phantom is driving without a license, they devise a way to expose that fact. The plan requires a young man to dress as a traffic cop with a hidden camera, stop the Phantom, and identify himself as a police officer. When the video of the Phantom unable to produce a license goes viral, the DMV reports that there is no record of his license application. There is a popular call to stop the Phantom Racer before he strikes again. But some people who agree with that goal spend most of their time questioning the deceptive tactics of the hidden-camera crew, claiming that the false officer lied to get the information, even though the mayor commends the impersonator.

Perhaps you see the analogy here to the Live Action undercover crews. Led by 22-year-old Lila Rose, Live Action uses hidden cameras, deceptive identities, and false statements to catch Planned Parenthood employees apparently willing to aid and abet sex traffickers, cover up statutory rape, and avoid mandatory child abuse reporting laws. The videos posted on YouTube and the group’s website are chilling and revealing, and have reached the highest levels of Congress in a Republican-led effort to defund Planned Parenthood, which receives some \$350 million in federal funds.

The work of Live Action, which has targeted Planned Parenthood as the nation’s largest abortion provider and exploiter of young women, may be the most significant pro-life breakthrough since partial-birth abortion became a congressional issue in the 1990s. Once the public saw the gruesome partial-birth procedure, in which a late-term baby is partially delivered and the skull collapsed, there was widespread shock and revulsion. By defending the method (which was finally outlawed), the image of the pro-abortion forces took a big hit.

A similar public reaction is now brewing over the apparently illegal practices of Planned Parenthood employees, and there could be significant action on Capitol Hill to expose Planned Parenthood and hinder its business. In multiple sting operations that began to be released on video early in 2011, a man posing as a

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pimp and a woman posing as a prostitute tell Planned Parenthood employees that they are “sex workers” and some of their “girls”—described as minors who are in this country illegally—need to get tested for sexually transmitted diseases, while others require abortions. In every case in the released videos, employees cooperate fully, advise the “sex worker” pair on how to get contraceptives and abortion without parental consent, and give no indication that they would comply with the mandatory reporting laws for sex trafficking, sexual abuse of minors, or statutory rape.

Planned Parenthood executives have tried to portray the incidents as isolated—they fired one especially egregious employee who gave advice on how to keep prostitutes working after an abortion—and have denied that these employees were carrying out company policies. Yet the sheer number of the tapes, showing Planned Parenthood personnel at various facilities giving matter-of-fact advice on how to circumvent the law, suggest that these practices are routine. The fact that Planned Parenthood announced a massive retraining regimen in response to the tapes tells us all we need to know.

Live Action, with its crew of brave young media agents, has received much praise and support from pro-lifers. Two years ago, its founder Lila Rose received a Gerard Prize for Life with a gift of \$100,000, and she is a popular speaker at pro-life rallies. She also has the support of many established pro-life groups, such as Priests for Life, headed by Father Frank Pavone. Yet the team’s tactics have also set off a backlash from some pro-life advocates who applaud the results but question the methods. They ask if lies can be justified by the good results they bring, and if the goal of shutting down Planned Parenthood justifies the means. These questions have divided pro-life leaders much as the embryo adoption issue has, with very orthodox thinkers coming down on different sides.

One Man’s View

Since this is an issue on which it is difficult to remain neutral, I will first reveal my own thinking and then recount the arguments of the best minds on either side of the question.

The scenario developed at the beginning of this article offers insight into my point of view. First, we have a case where children are being killed—both the fictional Phantom Racer and Planned Parenthood kill innocent children—one born, the other unborn. Next, the civil authorities charged with stopping wrongdoers refuse to act against these killers. Just as the Phantom roams free, so is abortion legal and the cops cannot raid Planned Parenthood’s offices. In addition, there is a hands-off approach to the organization that receives so much federal funding and favorable media coverage.

With official law enforcement unable or unwilling to stop the killing, groups of

citizens devise their own method of seeking justice. In the hypothetical case, a young person poses as a cop in order to expose the Phantom's illegal activity—driving without a license. In the Live Action case, young people pose as pimps and prostitutes to gain access to Planned Parenthood employees and give false stories to see what the employees will say or do when presented with illegal activity that they are obligated to report.

It is evident that those seeking to stop the killing use deceptive methods and untruths, and we likely agree that it is never justifiable to use an evil means to pursue an otherwise good end. But the question is, are the deceptive words and actions of Live Action evil or sinful? Did members of Live Action lie to Planned Parenthood employees in the sense forbidden by the Eighth Commandment, and does the moral law bar them from using these tactics? This is the disputed question behind all the heated debates on the Internet. Four millennia after Moses came down the mountain with the Ten Commandments, we are left to debate what exactly constitutes sinful lying and whether and under what circumstances deception is ever licit. That sounds astounding, but no less an intellectual luminary as Professor Robert George of Princeton frames the issue in that way, as we shall see.

In my view the Live Action crew has done nothing sinful or immoral in deceiving Planned Parenthood. As I see it, speech must always be evaluated in context. We have a First Amendment right to “free speech” in our country, yet common sense and our highest court have contextualized that right to exclude yelling “Fire!” in a crowded theater. There are conventions to speech that would allow for what would ordinarily seem like lies. When a birthday boy asks his father repeatedly, not settling for evasive answers, “Are you planning a surprise party?” who would deny the father the right to say “no” to preserve the surprise? My parents used to call these “white lies,” which I must say I was very uncomfortable with as a child, being a sort of moral absolutist—and also hating to be surprised when everyone else knew what I didn't.

To me, the Live Action crew invokes a social—and even a professional—convention of speech in presenting themselves to Planned Parenthood. I think their description of the undercover agents as “actors” is perfectly accurate. They are involved in an elaborate “street theater” in which the reaction and interaction of the unwitting participants is the unwritten climax.

Live Action and similar young sting artists such as James O'Keefe (the conservative political activist who exposed ACORN's illicit activities) also claim to be engaged in investigative journalism. I think this description, again, is accurate; their methods are in keeping with the conventions of that journalistic discipline. Think of “60 Minutes” and other TV truth-seekers. Live Action's claim to be conducting investigative journalism gains greater weight and urgency because the mainstream

media has refused for decades to responsibly investigate abortion providers, despite a wealth of evidence of wrongdoing.

Or for that matter, think of Hamlet devising a play to “catch the conscience of the king.” There is also the convention of a magic show, in which a magician uses deceptive words and actions—“I will now cut the rope, and then I will reattach the rope ends.” Under this convention, the magician says and does things deliberately to deceive, even if the children walk away at the end of the show thinking that somehow the laws of nature have been changed and pester their parents with questions. That’s what you buy into when you go to a magic show.

There are even more widely observed social conventions regarding Santa Claus and the tooth fairy. Parents flat-out deceive their children when they insist on the existence of these imaginary beings, yet one of the most popular movies at Christmastime is *Miracle on 34th Street*, which condemns the nitpicking mother who refuses to expose her daughter to such fairy tales. The movie even ends with the suggestion that Santa Claus may indeed exist!

Do we stop telling our children about Santa Claus and putting money under their pillows in exchange for a lost tooth? Of course not. These are all social conventions that allow respectable fibbing to explain a higher truth, or simply to inject fun and wonder into childhood.

Given this variety of examples, I would hope that pro-lifers could agree on another social convention. If an organization is involved in the killing of unborn babies and covering up statutory rape and child abuse, its employees forfeit the right or expectation to be dealt with in a straightforward manner by those who seek to expose their deadly, illegal behavior. This is especially true when the government and police are barred by law from stopping the killing, and the media are not at all inclined to investigate even the more evident wrongdoing of the organization.

The convention I suggest regarding Planned Parenthood and others like it resembles the approach taken by undercover cops pursuing drug dealers, or FBI agents posing as minors online to catch sexual predators. Would Christians and Jews be barred by the Eighth Commandment from working as such agents? Certainly, many Catholics have performed these high-risk operations with no public reprimand from priests, bishops, or the Vatican. Even the heroic Jesuit Father Walter Ciszek entered the Soviet Union under a false name, with false papers, with the approval of his bishop and superiors, in order to administer the sacraments in then-communist territory, a story he tells in his excellent book *With God in Russia*. His cause for canonization has been accepted by the Vatican and Father Ciszek holds the title “Servant of God.”

The popular blogger Mark Shea has written at length against Live Action tactics while admitting he doesn’t have all the answers. Ultimately, he relies on the *Catechism of the Catholic Church*, which states, “To lie is to speak or act

against the truth in order to lead into error” (2483). Yet I think it fair to say that Live Action “actors” or “investigative journalists” seek to lead Planned Parenthood not into *error* but into *truth*, and by doing so help a larger audience see the truth about Planned Parenthood. Thus, it seems to me that what Live Action is doing does not qualify as lying in the sense barred by the Eighth Commandment.

The Best Minds

My point is that not every untruthful statement is a lie in terms of the Commandments. That may sound like mushy morality, and we have to be careful in making this assertion, but it is one made by the eminent scholar Hadley Arkes, who joined the lively debate on the website “Public Discourse,” hosted by the Witherspoon Institute where Professor George is a Senior Fellow. A Jew who recently entered the Catholic Church, Arkes invokes the real-life World War II predicament of those who harbored Jews and were confronted by Nazis at the door. Arkes writes:

Not every taking of property is a theft. Not every killing is a murder. A “murder” is an “unjustified killing.” An innocent person, set upon unjustly, could not be unjustified if lethal force offered the only means of rescuing himself from that unwarranted assault.

In the same way, not every act of speaking falsely is a “lie.” . . . A “lie” is an unjustified act of speaking falsely, as a murder is an unjustified act of killing. The untruth becomes a lie when it is directed to a wrongful purpose, as in deceiving for the sake of fraud and for the hurting of the victim. Now, if we are in the presence of something we could finally call a “lie” in that sense, it would seem to me to follow that lying is indeed always and everywhere wrong. But that is not what is done by the Dutch householders protecting the Jews they are hiding and speaking falsely to the Gestapo.

Christopher Tollefson, a senior fellow of the Witherspoon Institute who usually sits on the same side of the moral fence as Arkes, had a different view:

Yet for all the good that may come of these videos, the way in which Live Action has made its mark is itself extremely troubling, for it is predicated on a form of falsity, which is exercised in an unloving way. Promising and welcome as the effects of these videos might be, they represent a real and dangerous corruption of the pro-life movement itself by endangering the pro-life movement’s commitment to its ideals of love and truth.

It is tempting to refer to the “pimp” character in Live Action’s videos as an “actor.” But this is misleading. Actors perform for willing and aware audiences who realize they are watching a fiction. The “pimp,” rather, lied, repeatedly and pervasively, in his conversation with the Planned Parenthood worker: he presented himself as other than he truly was, and his purpose in doing so was clearly to deceive.

In direct response to this post, Christopher Kaczor wrote that Live Action should probably avoid direct lies such as the pimp saying he is a “sex worker” who handles prostitutes, yet he denies that the group violates the dictates of love.

“The circumstance of saving innocent human life seems like just the sort of circumstance that justifies deceiving others,” writes Kaczor, a philosophy professor. “Indeed, it is love that motivates Live Action to undertake the dissimulation: love for unborn human beings but also love for those who are perpetrating the evil.”

Professor George himself comes out against Live Action methods on the website “Mirror of Justice,” while asserting that a greater understanding is needed regarding the distinction between allowable deception and outright lying. “Getting to just what it is that distinguishes the two is, I predict, where this debate is heading—and that, I believe, is just where it should head.”

Writing from a Catholic point of view, and citing the clear teaching of both St. Augustine and St. Thomas Aquinas, George states:

The firm teaching of the magisterium, reconfirmed in the *Catechism*, is that lying is intrinsically immoral and is therefore impermissible even as a means of preventing grave injustices and other evils. I don’t see how it is possible to avoid the conclusion that this teaching requires of Catholics the submission of intellect and will that is known as “religious assent.” . . .

So the only way I can think of to defend Live Action’s tactics is to argue that the utterances and actions of those who represented themselves as sex traffickers and prostitutes were not lies. . . . I don’t think it can possibly work when it comes to the utterances of the Live Action team. They stated things they knew to be false precisely with a view to persuading the Planned Parenthood workers that they were true. That’s just what a lie is. And their utterances were not made in a context of social conventions that could render a statement one knows to be false something other than a lie: such as when someone invites a friend out for a “quiet meal” on his birthday, only to deliver him to a big surprise party in his honor.

Points well taken, and anyone should be slow to disagree with Professor George. Yet none of the people I have read in this debate has addressed the idea of “white lies” told in the social conventions regarding Santa Claus and the tooth fairy. Is it possible then, that we might be enlightened by considering the ethics of the social conventions of street theater, investigative journalism, and the use of deceptive tactics to bring out hidden truths, as suggested in this article? At the very least, these are issues that need further consideration and debate.

Oh, by the way, the name I use for this article is a pseudonym—another social and professional convention that has been used by famous and well-regarded authors such as Publius and Mark Twain. I hope we are not all liars.

Lying and the Love of Enemies:

Reflections on Live Action's Action

Mark S. Latkovic

I.

In recent months I have had instructive conversations in person, by phone, and by email with my seminary colleagues over the question of whether Live Action's videotaped undercover operation at various Planned Parenthood clinics across the country—videotapes that showed Planned Parenthood's workers either overlooking or facilitating various illegal activities with minors—was morally justified or not. The Catholic philosopher Christopher Tollefsen's February 9, 2011 essay posted on Public Discourse, and his subsequent follow-up essays responding to criticism from several authors, was further stimulus to my thinking about the morality of Live Action's tactics.

It is a complicated subject that obviously won't be resolved in a brief essay. But I offer some thoughts here that have been swimming around in my mind. I have tended to say to my dialogue partners that I wholeheartedly agree with Live Action's *goal*: to expose Planned Parenthood and ultimately defund them of federal monies. But I have also said that I disagree with their *means*: to lie to the Planned Parenthood workers. Here's how, in large part, I have arrived at my position.

II.

To begin with, the greater part of the Catholic moral tradition insists on the intrinsic immorality of the lie—an action prohibited by an absolute moral norm corresponding to the eighth commandment (see Dt 5:20). Moreover, most of those writing within this tradition make no allowance for the distinction between telling a “falsehood” (which could be justified in some extraordinary circumstances) and a “lie” (always immoral, even if venial in many circumstances). As many authors have noted, the *Catechism of the Catholic Church* in its revised edition (1997; see no. 2483), seems to withdraw the option found in the first edition (1994, see no. 2483) of those who wanted to argue that telling a falsehood to someone who didn't have “a right to know the truth,” was legitimate in certain circumstances (say, to fend off Nazis looking for Jews hiding in your attic).

According to St. Thomas Aquinas, who is representative of the Catholic tradition, to *lie* is to assert something contrary to what one knows to be true in one's own mind (see *Summa theologiae*, II-II, Q. 110, a. 1); according to the

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Catechism, no. 2483, it is “to speak or act against the truth in order to lead someone into error.” (I realize, however, that the whole issue of how to define lying is a mine field!)

Second, from a Catholic perspective, both the *end* (in the sense of the further or remote end) and the *means* (in the sense of the immediate or proximate end) must be morally good. The “object” of the act (*what* you are freely choosing to do) includes both; and both must be morally upright. Live Action’s behavior seems to fall into the category of violating St. Paul’s prohibition against doing an evil to achieve a good (see Rom 3:8).

Third, it is revealing that St. Thomas Aquinas, in discussing war in the *Summa theologiae*, treats it in the context of his treatise on *charity*. Even in war, he insists, we must, as a Gospel imperative, *love our enemies*. He quotes St. Augustine: “We do not seek peace in order to be at war, but we go to war that we may have peace. Be peaceful, therefore, in warring, so that you may vanquish those whom you war against, and bring them to the prosperity of peace” (see *S.t.*, II-II, Q. 40, a. 1, ad. 3).

Thus, although it sounds a bit strange to modern ears, we must engage in warfare in such a way that after the fighting ceases, we can be on friendly terms with those who were, at one time, our enemies. So too our action with the Planned Parenthood worker (which I would not liken to a “war”): We want to be able to look him or her in the eyes someday and say, “I did not lie to you, enemy though you were at one time. I spoke the truth in love.” As pro-lifers, we want to save babies and their mothers, but we also want to win over the Planned Parenthood worker, difficult though this may be. But without establishing some level of *trust*, by being honest at all times, this will not happen, short of a miracle. (Being honest does not mean of course always having to reveal everything one knows to be the truth, nor does it mean that one cannot engage in “ambiguous speech”—that is, so-called “mental reservation”—in certain situations for a grave and just reason.)

Now, let’s make no bones about it. Planned Parenthood is an *enemy* of the pro-life movement. Its employees take the lives of innocent unborn babies. But we as Christians are called by Jesus Christ to a “higher righteousness” (cf. Mt 5:20); we are called to “be perfect” (see Mt 5:48). To be “perfect” is to “love your enemies and pray for those who persecute you” (see Mt 5:44). It’s easy to be perfect with fellow pro-lifers; the true test is with Planned Parenthood workers (cf. Mt 5:46-47). There are no “short-cuts” to perfection, to holiness. Loving our enemies, if it means anything, cannot mean lying to them.

Fourth, we Christians do not always treat lying—in our personal lives or in statecraft—with the seriousness that it deserves. We often like to justify deception and deceit when it suits our own desires—admittedly, usually in pursuit of “higher,” more noble goals. In doing so, we often slip into the proportionalism and

consequentialism that the Magisterium of the Catholic Church condemns in no uncertain terms (see, for example, Pope John Paul II, *Veritatis splendor*, no. 76) and that we rightly reject when applied to abortion and euthanasia. True Christian morality does not rest on the calculation of consequences (important though they are in proper perspective). Nor is it mere deference to principles over persons. And this is true of Christian morality's approach to lying.

Rather, the Christian stricture against lying safeguards the good of truth and in doing so protects the dignity of the human person—speaker and spoken to—just as other moral absolutes protect other fundamental goods of the person. Lying leads to an existential bifurcation in the person—and in so doing leads to a loss of personal integrity or authenticity on the part of the one who lies, as Tollefsen, following moral theologian Germain Grisez, rightly argues. In lying, the “inner” and “outer” parts of me are not in harmony. Simply put, by freely telling a lie, *I turn myself into a liar*—a teller of untruths and falsehoods—no matter whether my ends are noble or not. And some ends are very noble, such as bringing down this country's largest abortion “provider”—Planned Parenthood. But other means—morally good means—must be employed to bring their operation down. We must be creative in discovering such morally permissible means, being “as cunning as serpents and as innocent as doves” (see Mt 10:16).

Fifth, in pursuing these discussions on the morality of lying to save lives, I have often thought of the Christian martyr as the exemplar of the kind of perfection we are called to emulate. The martyr is one who will not deny the faith—in word or in deed—even if it means his or her life will be taken as a result. The martyr could have given in and lied to save his or her own life—that is, the martyr might have pretended to accept another god in word or feign worship in deed—but does not. Pope John Paul II sees in the witness of the martyr's actions a living rejection of consequentialist theories of morality (see *VS*, no. 90). The martyr bears witness, says John Paul II, “not only to her [the Old Testament's Susanna in this case] faith and trust in God but also to her obedience to the truth and to the absoluteness of the moral order. By her readiness to die a martyr, she proclaims that it is not right to do what God's law qualifies as evil in order to draw some good from it” (*VS*, no. 91).

John Paul notes how the Church holds up as models these holy men and women who have borne witness to moral truth or who have endured death rather than commit one mortal sin. In declaring these martyrs saints, the Church “has canonized their witness and declared the truth of their judgment, according to which the love of God entails the obligation to respect his commandments, even in the most dire of circumstances, and the refusal to betray those commandments, even for the sake of saving one's own life” (*VS*, no. 91).

III.

Planned Parenthood's ideology rests on one giant *lie*: the lie that what is growing in the mother's womb is simply "unwanted tissue." The pro-life position rests on *love*: the love that says "we want what is truly best for you; and that can never mean lying to you—even to prevent you from doing what is morally wicked."

I realize that good, sincere, and intelligent people disagree on this issue. Some of them are my dear friends and colleagues whose views I respect. These reflections are only one very fallible moral theologian's take on an issue that needs serious and ongoing analysis. But I believe that in the end, the "culture of life" can defeat the "culture of death" only with the spiritual weapons of truth and love. By employing these weapons—those of the martyrs—pro-lifers will lay the foundation of a lasting peace by winning over the enemy through persuasion rather than temporarily vanquishing it to wait and fight another day.



"Can you handle the truth?"

Teenage Daughters and the Great Work

Edward Short

I knew Seraphina; Nature gave her hue,
Glance, sympathy, note, like one from Eden,
I saw her smile warp, heard her lyric deaden;
She turned to harlotry;—this I took to be knew.

—Edmund Blunden
“Report on Experience”

The other day I met with Chris Bell, Executive Director of Good Counsel, whose pro-life pregnancy care centers have been providing pregnant homeless women in metropolitan New York with shelter and support for close to 30 years. Over tea and cranberry muffins, he made a vital point: “We have to do more than combat abortion: we have to promote the culture of life.”

The day-to-day fight against abortion can be so all-consuming that we can forget that if we are against the taking of innocent life in the womb, we must also be for reaffirming the sanctity of life beyond the womb, a sanctity which our general culture does not begin to understand, much less honor.

Many of my readers will have seen the March 2011 piece in *The Wall Street Journal* by Jennifer Moses, in which she asked: “Why do so many of us not only permit our teenage daughters to dress like . . . prostitutes . . . but pay for them to do it with our AmEx cards?”¹

That Moses hit a very sensitive nerve in posing this question is borne out by the tremendous response that the article received—a response only equaled by that of another *Journal* article about child rearing by a woman convinced that Asians have some edge in this always vexing enterprise. Yet if Moses addresses an issue that is on the minds of many readers, her understanding of it is deeply ambivalent.

For example, she posits the theory that mothers today acquiesce in the degradation of their daughters because they were degraded themselves when they were young. “It has to do with how conflicted my own generation of women is about our own past,” she writes, “when many of us behaved in ways that we now regret. A woman I know, with two mature daughters, said, ‘If I could do it again, I wouldn’t even have slept with my own husband before marriage. Sex is the most powerful thing there is, and our generation, what did we know?’”

This theory sounds plausible: the sins of the mothers do have a way of being visited upon the daughters. Readers who need fresh evidence for this can consult

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Mary Karr, Wendy Burden, and Ivana Lowell, all of whose memoirs richly document how the bad behavior of mothers can leave lifelong scars on vulnerable daughters.²

But what is striking about Moses is that she offers no explanation of why she and her friend regard sex as “the most powerful thing there is.” Why do they think that?

What do they mean by “powerful”? And why do they now wonder if this is something that a woman should only share with her husband after marriage? Perhaps they miss in our own culture that deep appreciation for the dignity of marriage to which George Crabbe gave such moving expression.

The ring so worn as you behold,
So thin, so pale, is yet of gold:
The passion such it was to prove;
Worn with life’s cares, love yet was love.³

Moses does not say why she now recognizes the importance of marriage, though many, after reading her article, might have been reminded of the opening words of *Humanae Vitae*, Pope Paul VI’s historic encyclical, in which he wrote: “The transmission of human life is a most serious role in which married people collaborate freely and responsibly with God the Creator.”

Moses may be vague when it comes to marriage, and entirely mum on that now superannuated thing, courtship, but she is revelatory about how she sees her place within the scheme of generational history.

We are the first moms in history to have grown up with widely available birth control, the first who didn’t have to worry about getting knocked up. We were also the first not only to be free of old-fashioned fears about our reputations but actually pressured by our peers and the wider culture to find our true womanhood in the bedroom. Not all of us are former good-time girls now drowning in regret—I know women of my generation who waited until marriage—but that’s certainly the norm among my peers. So here we are, the feminist and postfeminist and postpill generation. We somehow survived our own teen and college years (except for those who didn’t), and now, with the exception of some Mormons, evangelicals and Orthodox Jews, scads of us don’t know how to teach our own sons and daughters not to give away their bodies so readily. We’re embarrassed, and we don’t want to be, God forbid, hypocrites.

There is a good deal that is tell-tale about this. First of all, the author does not seem to realize how hornswoiggled she and so many of her peers have been by the false promises of feminism, which have not served the interests of either single or married women. Moreover, while the damage feminism has done to the social fabric as a whole might be incalculable, it has certainly played a very culpable part in the shattering of the family and the neglect of children. Yet Moses continues to pay homage to the myth of feminist liberation: “We are the first moms in history to have grown up with widely available birth control, the first who didn’t have to worry about getting knocked up.”

This is a sorry boast. And how contemptible to say that a mother cannot dissuade her daughter from repeating her own follies because it would make her a hypocrite! If that logic were followed, few mothers would instruct their young in any of the virtues.

Second, although she seems vaguely aware that contraception might have had something to do with the promiscuity that overtook her generation, she does not question whether this was a good or a bad thing. Again, this calls to mind Paul VI, who, after affirming the Church's adherence to the moral law on the issue of contraception, gave prescient expression to what he recognized would be the pernicious results of breaking that law: "[H]ow easily this course of action could open wide the way for marital infidelity and a general lowering of moral standards." Indeed, for the pope, whose experience in the confessional would have left him in no doubt about such matters, "Not much experience is needed to be fully aware of human weakness and to understand that human beings—and especially the young, who are so exposed to temptation—need incentives to keep the moral law, and it is an evil thing to make it easy for them to break that law."⁴

What is also remarkable about Moses is how she does not seem to grasp what a continuing role the breaking of this law plays in the even more rampant promiscuity that obtains among her daughter's contemporaries. She wishes to suggest that her own generation's attitudes toward sex and the attitudes of her daughter's generation are to some extent comparable, but clearly this is not the case; consider the picture she herself provides of what constitutes "the current social norm," which includes "sexting" among preteens, "hooking up" among teens and college students, and a constant stream of semi-pornography from just about every media outlet." Here is the real harvest of the artificial birth control that turns human sexuality into a diversion, or, worse, a commodity that blinds young men and women to the sacred obligations of that sexuality.

In light of the remorseless debasement of the young, which now has the support of both the popular culture and the public authorities, Moses, speaking for herself and her friends, admits that "the desire to push back is strong." Indeed, she goes further and concedes that she does not know one of her friends "who doesn't have feelings of lingering discomfort regarding her own sexual past." In fact, none "wishes she'd 'experimented' more."

Here, at least, is proof of the importunity of conscience. Yet Moses also shows how false reason can muddle conscience. In an attempt to enter into the psychology of teenage girls, for example, she asks: "What teenage girl doesn't want to be attractive, sought-after and popular?"—as if the mere existence of such wishes justified their gratification.

Of course, teenage girls desire the acceptance of their peers, but they should be

encouraged to seek such acceptance on their own terms—because of their virtues, their talents, their intelligence, their charm—not because they are willing to do the bidding of the popular culture. That culture has now convinced a good many teenage girls that the only way to be “attractive, sought-after and popular” is by dressing up and behaving like trollops. Should a responsible mother accede to this exploitation? Or should she instead sit her daughter down and explain that there will be many times when she will have to do the unpopular thing in order to do the right thing?

Moses never asks these questions because she assumes that most mothers will simply join her in succumbing to what might be called “daughter pressure.” But then she makes an admission that stops one in one’s tracks.

In my own case, when I see my daughter in drop-dead gorgeous mode, I experience something akin to a thrill—especially since I myself am somewhat past the age to turn heads.

When a mother can admit such a thing, and do so with the air of someone who fully expects her readers to agree with what she is saying, we know we have arrived at a pretty pass. What Moses is saying, in effect, is that she and her friends not only connive in the debauching of their daughters but actually enjoy it. By their own admission, they have become little better than whoremongers and bawds. And that she does not spare herself in this analysis makes the force of her conclusion all the more compelling.

I wouldn’t want us to return to the age of the corset or even of the double standard, because a double standard that lets the promiscuous male off the hook while condemning his female counterpart is both stupid and destructive.... But it’s easy for parents to slip into denial. We wouldn’t dream of dropping our daughters off at college and saying: “Study hard and floss every night, honey—and for heaven’s sake, get laid!” But that’s essentially what we’re saying by allowing them to dress the way they do while they’re still living under our own roofs.

The value of Moses’ piece is not that it calls attention to the lamentable corruption of our teen-age girls. Anyone who walks our city streets or turns on the television or browses the Internet can see that. No, its real value is that it proves Chris Bell’s point. We cannot simply combat the culture of death by combating abortion: we also have to promote the culture of life, and this requires pro-lifers to be willing to exhibit what Paul VI called “signs of contradiction” to a society intent on deriding virtue and applauding vice.

Thus, pro-lifers should be prepared, as the pope urged, “to create an atmosphere favorable to the growth of chastity so that true liberty may prevail over license and the norms of the moral law may be fully safeguarded.” This requires our denouncing the sexualization not only of our teenage girls but of our teenage boys as well, too many of whom are encouraged to see sexuality in terms of the

travesties of pornography, the very essence of which is to mock chastity. That pornography disables young men from entering into the obligations of sexuality by confusing it with onanism goes without saying, but what our culture is in peril of forgetting is that without chastity love is impossible.

It was to foster the “growth of chastity” that the pope urged those united in Christian marriage to personify the norms of the moral law in their very unions. “Let Christian husbands and wives be mindful of their vocation to the Christian life,” he exhorted the faithful,

a vocation which, deriving from their Baptism, has been confirmed anew and made more explicit by the Sacrament of Matrimony. For by this sacrament they are strengthened and, one might almost say, consecrated to the faithful fulfillment of their duties. Thus will they realize to the full their calling and bear witness as becomes them, to Christ before the world. For the Lord has entrusted to them the task of making visible to men and women the holiness and joy of the law which united inseparably their love for one another and the cooperation they give to God’s love, God who is the Author of human life.

By embodying these truths in their own lives, married couples can share them with other married couples, since, as the pope observes:

Among the fruits that ripen if the law of God be resolutely obeyed, the most precious is certainly this, that married couples themselves will often desire to communicate their own experience to others. Thus it comes about that in the fullness of the lay vocation will be included a novel and outstanding form of the apostolate by which, like ministering to like, married couples themselves by the leadership they offer will become apostles to other married couples. And surely among all the forms of the Christian apostolate it is hard to think of one more opportune for the present time.

Paul VI wrote that in 1968, before contraception had fully wreaked its havoc. Now that we find ourselves surrounded by that havoc, we must take Chris Bell’s good counsel and rededicate ourselves to what the pope called the “great work” of reaffirming the sacred obligations inherent in sex and marriage, procreation and child rearing, which are the wellsprings of the culture of life. “For,” as the pope so prophetically warned the world over four decades ago, “man cannot attain that true happiness for which he yearns with all the strength of his spirit, unless he keeps the laws which the Most High God has engraved in his very nature.”

NOTES

1. See Jennifer Moses. “Why Do We Let Them Dress Like That?” in WSJ (March 19, 2011)
2. See Mary Karr. *Lit* (New York, 2009); Wendy Burden. *Dead Gene Pool* (New York 2010); and Ivana Lowell. *Why Not Say What Happened?* (New York, 2010).
3. George Crabbe (1754-1832) wrote of the country poor in such faithfully realistic poems as *The Village* (1783), *The Parish Register* (1807) and *The Borough* (1810). Admired by Edmund Burke, Samuel Johnson, John Henry Newman and James Joyce, Crabbe exploded the myths of pastoral that beguiled so many Neo-Classical and Romantic poets.

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4. See Encyclical Letter *Humanae Vitae*, Of The Supreme Pontiff Paul VI To His Venerable Brothers The Patriarchs, Archbishops, Bishops And Other Local Ordinaries In Peace And Communion With The Apostolic See, To The Clergy And Faithful Of The Whole Catholic World, And To All Men Of Good Will, On The Regulation Of Birth. Given at St. Peter's, Rome, on the 25th day of July, the feast of St. James the Apostle, in the year 1968, the sixth of His pontificate.



"And this is my boy, Chris—the gift that keeps on taking."

Bathsheba Spooner's Plea of Pregnancy and State "Personhood" Amendments

Gregory J. Roden

In 1778, during the course of human events which gave birth to our nation, Bathsheba Spooner had her own nascent concern. Facing death as a condemned prisoner, Mrs. Spooner resorted a second time to the common-law plea of pregnancy to spare the life of her in utero child:

May it please Your Honors

With unfeigned gratitude I acknowledge the favor you lately granted me of a reprieve. I must beg leave, once more, humbly to lie at your feet, and to represent to you that, though the jury of matrons that were appointed to examine into my case have not brought in my favor, yet that I am absolutely certain of being in a pregnant state, and above four months advanced in it, and the infant I bear was lawfully begotten. I am earnestly desirous of being spared till I shall be delivered of it. I must HUMBLY desire your honors, notwithstanding my great unworthiness, to take my deplorable case into your compassionate consideration. What I bear, and clearly perceive to be animated, is innocent of the faults of her who bears it, and has, I beg leave to say, a right to the existence which God has begun to give it. Your honors' humane *christian* principles, I am very certain, must lead you to desire to preserve life, even in this miniature state, rather than destroy it. Suffer me, therefore, with all EARNESTNESS, to beseech your honors to grant me such a further length of time, at least, as that there may be the fairest and fullest opportunity to have the matter fully ascertained; and as in duty bound, shall, during my SHORT CONTINUANCE, pray,

Bathshua Spooner
Worcester [Jail]
June 16, 1778¹

It is a moving and persuasive discourse on the sanctity of life in the womb—an unborn child, though in a “miniature state,” “animated” with life; possessing an unalienable right to life bestowed by God, which no one should take away; having an independent legal status from the mother and thereby innocent of her crimes. Accepting her guilt and her fate, Bathsheba did not seek a reprieve for her own sake, but a stay of execution until she could deliver her child. There is no little irony in that we, living in this Culture of Death, have inherited this insightful moral lesson from a murderess who penned it some two hundred years ago, immediately prior to one of our country's first executions.

The plea of pregnancy existed under the common law for at least 400 years prior to Bathsheba's case.² In response to such a plea, a court would issue a writ

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de ventre inspiciendo (inspection of the abdomen) ordering the examination of the woman. Supreme Court Justice Horace Gray identified the writ as a due-process protection of the unborn child's life in *Union Pacific R. Co. v. Botsford*: "The writ *de ventre inspiciendo*, to ascertain whether a woman convicted of a capital crime was quick with child, was allowed by the common law, in order to guard against the taking of the life of an unborn child for the crime of the mother."³ Mrs. Spooner was convicted of being an accessory before the fact to her husband's murder, "that she 'invited, moved, abetted, counseled and procured' the murder to be committed."⁴ She was sentenced to death along with three co-conspirators.

In response to Bathsheba's first plea, made on her behalf by a local minister, Reverend Thaddeus Maccarty, a jury of twelve matrons and two male midwives was appointed to examine her. The jury returned a verdict that Mrs. Spooner was "not quick with child."⁵ Bathsheba, insisting that she was pregnant, wrote the above letter to the Massachusetts Governor's Council.

The Governor's Council granted Mrs. Spooner's request and a second jury was summoned. This time the jury consisted of two matrons (one having been present at the first examination and the other not) and four midwives (the same two as in the first examination assisted by another male and one female). The four midwives were of the opinion that Mrs. Spooner was "now quick with child." Whereas, the two matrons still maintained "that she is not even now quick with child." With the split opinion from the second examination, the Governor's Council "refused all further delay," and the sentences were carried out.⁶ Unfortunately, the matrons proved to be deadly wrong; as Rev. Maccarty recounted, "She was opened the evening after the execution, and a perfect male foetus of the growth of five months or near it, in the judgment of the operators, was taken from her."⁷

Bathsheba Spooner's case resulted in criticism of the use of juries of matrons to examine condemned women. Noting that the *Spooner* case was the last one in which a jury of matrons was impaneled, the *Harvard Law Review* had this to say in 1889:

It was hardly likely that the jury of matrons would be summoned again so long as Mrs. Spooner's case was fresh in mind. Moreover, the progress of the science of medicine has been so great during the past century that every year has seen it less expedient to resort to such clumsy means, when doctors can be had. It is not strange that the *Albany Law Journal* jeers at the Pennsylvania papers for suggesting that a jury be summoned; "it is antiquated," is the taunt. It is possible, even, by an examination of the later cases, to discover a tendency to put questions of alleged pregnancy to doctors for decision. The writ in Mrs. Spooner's case, for example, added two "men midwives" to the twelve matrons—a departure from common-law practice not entirely happy, however, if we judge by the result. The jury of women in Anne Wycherley's case [in England] asked for and got the assistance of a surgeon. . . . In view of all these facts, it seems quite likely that a question of pregnancy arising to-day would be referred for decision directly to doctors.⁸

The advances in medical science during the 19th century did indeed render the jury of matrons “antiquated.” Professor James Oldham notes in his book *Trial by Jury*: “By the late nineteenth century, the obstetrician-gynecologist had come into existence as the recognized expert on the subject of pregnancy. With these developments, the jury of matrons became superfluous.”⁹

In conjunction with the jury of matrons, the quickening standard they used also became obsolete as a result of the advances in medical science (e.g., the invention of the stethoscope in 1819), and numerous discoveries in embryology. In 1801, Dr. Anthelme Richerand, Professor of Anatomy and Physiology and the principal Surgeon of the Hospital of the North in Paris, revealed in his book *Elements of Physiology* that blood and a heartbeat could be perceived about the seventeenth day after conception. In 1823, Dr. Theodric Romeyn Beck, in his influential book *Elements of Medical Jurisprudence*, wrote about the inadequacies of quickening in abortion prosecutions, calling it an outdated “absurdity.” Instead of quickening, Dr. Beck elaborated on the growing and increasingly undeniable medical evidence that a fetus was alive, “vitalized,” prior to quickening¹⁰—“animated,” in the words of Mrs. Spooner.

Similarly, some states adapted their criminal *common law* on abortion to fit the scientific evidence of the time; the Supreme Court of Pennsylvania declared in 1850, “The moment the womb is instinct with embryo life, and gestation has begun, the crime may be perpetrated.”¹¹ The first case in this movement of the law was another abortion case before the Pennsylvania Supreme Court in 1848, *Commonwealth v. Demain*,¹² in which the quickening requirement was ignored. The attorney general in *Demain* argued against the quickening standard, cited Dr. Beck’s *Elements of Medical Jurisprudence* to support his argument, and his reasoning prevailed.

State *statutes* were uniformly adopted to criminalize abortion from the moment of conception, thereby protecting the unborn child during the whole of its uterogestation.¹³ In explaining the change under Texas statutes from quickening to pregnancy, Justice Prendergast in *Gray v. State* (1915) made this pronouncement:

“Pregnancy is defined with reference to a woman as the state of being with child, and is used to designate the condition of a woman from the moment of conception until she has been delivered of the child.” 1 Corpus Juris, 312; 1 A. & E. Ency. of Law & Prac. p. 116. “Pregnancy extends [for] the whole period from the earliest conception to the actual expulsion of the fetus.” *State v. Howard*, 32 Vt. 380.¹⁴

Correspondingly, modern plea-of-pregnancy statutes do not have any quickening requirements. For example, the state of New York’s present statute requires that the superintendent of a correctional facility, when informed that a condemned woman might be pregnant, “shall appoint a qualified physician to examine the

convicted person and determine if she is pregnant.”¹⁵ Likewise, there are similar statutes in other states.¹⁶

Bathsheba Spooner’s plea of pregnancy, and the resulting legislative changes modernizing the examination of condemned women, illustrate the inherent power of state governments to protect the due-process rights of unborn persons to life and liberty—“in order to guard against the taking of the life of an unborn child for the crime of the mother,” in the words of Justice Gray. Bathsheba Spooner’s case also illustrates that the states possessed the power to recognize unborn children as persons within their jurisdiction since the founding of our republic.

Contrarily, in his ignoble agitation to strike down criminal abortion laws in the years prior to *Roe v. Wade*, the general counsel for NARAL, Cyril C. Means Jr., invented the argument that the Supremacy Clause of the Constitution negated the historical state power to affirm the personhood of unborn children. The Supremacy Clause reads: “the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby.”¹⁷ Means stated in his *Phoenix* article published two years prior to *Roe*:

Whatever one or more of the several states of the United States may choose to do, either with their legal rules or with their legal nomenclature, is of no federal constitutional significance, because the word “person” in the Federal Constitution must, of course, have a nationwide uniform federal interpretation.¹⁸

But, as even Means tacitly confessed, the Constitution does not explicitly deny the personhood of unborn children. Justice Blackmun too admitted as much when he wrote, “The Constitution does not define ‘person’ in so many words.”¹⁹ Undeniably, this is a truth that no Justice on the Court has ever questioned. Hence, on what basis could a federal court advance the Supremacy Clause over numerous state laws and state cases holding unborn children to be persons when the “Constitution does not define ‘person’ in so many words”?

There are two basic ways in which state law can come under the scope of the federal Supremacy Clause: 1) if the state law violates the equal-protection or due-process clauses of the Fourteenth Amendment, or 2) if the state law conflicts with federal law enacted under a power granted to the federal government in the Constitution.

First of all, state recognition of unborn children as persons has already been held *not* to violate the Fourteenth Amendment. In the 1989 case *Webster v. Reproductive Health Services*, the Court upheld a Missouri statute with a preamble that declared that “the life of each human being begins at conception,” and that “unborn children have protectable interests in life, health, and well-being.”²⁰ In upholding the statute, the Court reversed a lower court’s opinion finding the Missouri statute unconstitutional. Chief Justice Rehnquist, in announcing the opinion of the Court, noted, “In invalidating the preamble, the Court of Appeals relied on this

Court's dictum that 'a State may not adopt one theory of when life begins to justify its regulation of abortions,' quoting *Akron v. Akron Center for Reproductive Health, Inc.*, in turn citing *Roe v. Wade*.²¹ The Chief Justice then made this re-proof: "In our view, the Court of Appeals misconceived the meaning of the *Akron* dictum, which was only that a State could not 'justify' an abortion regulation otherwise invalid under *Roe v. Wade* on the ground that it embodied the State's view about when life begins."²² As the preamble did not regulate abortion directly, the Court let it stand: "The Court has emphasized that *Roe v. Wade* 'implies no limitation on the authority of a State to make a value judgment favoring childbirth over abortion.'"²³

In the second part of the opinion, the Court then upheld the rest of the statute that regulated abortion after viability. In upholding viability, the Court rejected the *Roe* trimester framework as an arbitrary standard of when life begins—"a virtual Procrustean bed."²⁴ Suggestively, the Court pondered allowing regulation of abortion prior to viability: "In the second place, we do not see why the State's interest in protecting potential human life should come into existence only at the point of viability, and that there should therefore be a rigid line allowing state regulation after viability but prohibiting it before viability."²⁵ Although, as the immediate statute before the Court was based on medical tests regarding viability, when the Court upheld the statute it necessarily limited its holding to the controversy before it, i.e., the constitutionality of viability testing: "But we are satisfied that the requirement of these tests permissibly furthers the State's interest in protecting potential human life."²⁶

Now, finally, the Court has followed the suggested course in *Webster* as it no longer restricts the state's interest in life prior to viability. In *Gonzales v. Carhart* (2007), the Court extended the state's interest in life, as it pertains to abortion regulation, to as early as "a detectable heartbeat,"²⁷ and perhaps as early as conception.²⁸ What is more, the inquiry as to when life begins is now clearly a finding of fact; a fact that both sides of the abortion controversy agreed to.²⁹ This is a sea change in abortion jurisprudence, as *Roe* and subsequent cases diminished the state's interest in life as being only an interest in "potential life," as the "difficult question of when life begins" could not be answered.³⁰ Once again, the existence of the unborn child as a living human being is a legally recognized fact. This transforms the state's interest from just *potential* life to life itself. If abortion jurisprudence has any internal logic, then the state's ability to safeguard unborn children's "protectable interests in life, health, and well-being" must now extend to the earliest point at which life can be detected as a matter of fact. Per *Webster* and *Gonzales*, state recognition of unborn children as persons should *not* be held to violate the Fourteenth Amendment, even with regards to regulating abortion, as

the vast majority of abortions are procured after a heartbeat is detectable.³¹

The other means by which the Supremacy Clause is applicable is if state law conflicts with federal law enacted under a power granted to the federal government in the Constitution, which is known as federal pre-emption. Tellingly, the *Roe*, *Casey*, *Webster*, *Akron*, and *Gonzales* opinions do not use the phrases “supremacy clause” or “federal pre-emption,” as the Court has never said federal pre-emption was a basis for the woman’s right to abortion. The only abortion case that uses these phrases is *Dalton v. Little Rock Family Planning Services*. In that case, the Supreme Court *reversed* a blanket federal court *invalidation* of an amendment to the Arkansas constitution which stated, “No public funds will be used to pay for any abortion, except to save the mother’s life.”³² In doing so, the Court stated a basic federal pre-emption rule: “In a pre-emption case such as this, state law is displaced only to the extent that it actually conflicts with federal law.” The Court held that as long as the state of Arkansas did not accept federal funds, it was not required to follow federal law on public funding of abortions.

The *Dalton* opinion is indicative of the federal recognition of the states as “independent sovereigns” with “historic police powers” that are presumed not to be pre-empted.³³ Even the *Roe* opinion noted that “the protection of a person’s general right to privacy—his right to be let alone by other people—is, like the protection of his property and of his very life, left largely to the law of the individual States.”³⁴ This historical police power included the power to protect unborn children as persons under criminal, tort, wrongful death, property, and inheritance law. All of these areas of the law are the sole jurisdiction of the states.³⁵ In other words, the Constitution does not give the federal government the power to legislate in these areas of state law. Consequently, there is no federal law to conflict with state law recognizing the personhood of unborn children—*Commonwealth v. Bathsheba Spooner* being one of the first examples of the exercise of this sovereign police power by the states.

It seems to be alleged in the arguments of Cyril C. Means and his followers that there is a third way by which the Supremacy Clause may be brought into play. When Means asserted that “the word ‘person’ in the Federal Constitution must, of course, have a nationwide uniform federal interpretation,” he implied that the Supreme Court has plenary power to invalidate any and every state court decision. But, it is the Constitution that is supreme and not the Supreme Court. And the Constitution limits the power of the Supreme Court to review state court decisions on state law under Article III of the Constitution. As the Court stated in *Herb v. Pitcairn*:

This Court from the time of its foundation has adhered to the principle that it will not review judgments of state courts that rest on adequate and independent state grounds. The reason is so obvious that it has rarely [been] thought to warrant statement. It is

found in the partitioning of power between the state and federal judicial systems and in the limitations of our own jurisprudence. Our only power over state judgments is to correct them to the extent that they incorrectly adjudge federal rights.³⁶

Yet the states, as in *Commonwealth v. Bathsheba Spooner*, have protected the rights of unborn children as persons under the “adequate and independent state grounds” of their police powers since the founding of our republic. Indeed, in *Printz v. United States*, the Court rejected simplistic applications of the Supremacy Clause, which Means and company advocate:

The dissent perceives a simple answer in that portion of Article VI which requires that “all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution,” arguing that by virtue of the Supremacy Clause this makes “not only the Constitution, but every law enacted by Congress as well,” binding on state officers, including laws requiring state officer enforcement. The Supremacy Clause, however, makes “Law of the Land” only “Laws of the United States which shall be made in Pursuance [of the Constitution].”³⁷

In *Printz v. United States*, certain provisions of the Brady Handgun Violence Prevention Act were challenged. Said provisions sought to establish a national system for instantly checking prospective handgun purchasers’ backgrounds, and commanded the state “chief law enforcement officer” of each local jurisdiction to conduct these checks on an interim basis until a national system was in place. Justice Scalia, known for his textual approach to constitutional questions, delivered the opinion for the Court. The following passage is the backbone of his opinion:

The petitioners here object to being pressed into federal service, and contend that congressional action compelling state officers to execute federal laws is unconstitutional. Because there is no constitutional text speaking to this precise question, the answer . . . must be sought in historical understanding and practice, in the structure of the Constitution, and in the jurisprudence of this Court.³⁸

In light of the *Printz* decision, the *Spooner* case takes on heightened importance; especially so since “the Constitution does not define ‘person’ in so many words.”³⁹ The *Spooner* case precisely illustrates the “historical understanding and practice” of the states as guardians of the rights of unborn persons under their municipal law, “the structure of the Constitution” as containing no federal powers to conflict with this municipal law, and “the jurisprudence of [the Supreme] Court” in never denying the power of the states to issue writs *de ventre inspiciendo* in their common-law or modern forms.

In particular, the *Spooner* case exposes the foolishness of Blackmun’s legal fiction in *Roe* of not being able to “resolve the difficult question of when life begins.”⁴⁰ The writ *de ventre inspiciendo* had existed for centuries. And juries of

matrons—who may be judged ignorant by the medical standards of the early 19th century—had been answering that question in courts of law long before the birth of our nation. The historic use of the writ *de ventre inspiciendo* illustrates that the question of when life begins has always been a finding of fact for a jury to decide, and never a point of law for a judge to render. Significantly, with the *Gonzales* decision, abortion jurisprudence has come full circle and once again the question of when life begins is a factual inquiry.

As a matter of fact, the states have possessed the power to recognize unborn children as persons since the founding of our nation.⁴¹ This power was wrongfully taken from them (for a time) by the *Roe* decision in contravention of “historical understanding and practice, . . . the structure of the Constitution, and . . . the [prior] jurisprudence of [the] Court.” Now, however, the *Gonzales* decision has effectively restored this power to the states and they ought to take full advantage of it.

NOTES

1. Deborah Navas, *Murdered by his Wife*, 88 (1999) (Navas also provides a reproduction of Bathsheba Spooner’s handwritten petition with the citation, “*Courtesy Massachusetts State Archives, Boston, Executive Records, Revolutionary Council Papers, 1777-1778*,” *ibid.* at 94(1).)
2. *Commonwealth v. Bathsheba Spooner*, 2 American State Trials 175 (J. Lawson 1778).
3. *Union Pacific R. Co. v. Botsford*, 141 U.S. 250, 253 (1891).
4. *Commonwealth v. Bathsheba Spooner*, 2 American State Trials 175, 177 (J. Lawson 1778).
5. *Ibid.* at 196, 198.
6. *Ibid.* at 196-201.
7. D. Navas, *Murdered by his Wife*, 92; Note, 3 *Harv. L. Rev.* 45 (1889). See 39 ALB. L. J. 326-327 (1889); J. Bouvier, *Bouvier’s Law Dictionary and Concise Encyclopedia* 1786 (Rawle’s Rev. 1914).
8. Note, 3 *Harv. L. Rev.* 45 (1889).
9. J. Oldham, *Trial by Jury* 113-114 (NY Univ. Press, 2006).
10. Gregory J. Roden, “Overturning *Roe* in a Heartbeat,” 35 *Human Life Review*, nos. 1 & 2, 101 (Winter/Spring 2009).
11. *Mills v. Commonwealth*, 13 Pa. 631, 633 (1850). See *State v. Reed*, 45 Ark. 333, 334-36 (1885); *Lamb v. State*, 10 A. 208, 208 (Md. 1887); *Commonwealth v. Taylor*, 132 Mass. 261, 262 (1882); *State v. Slagle*, 83 N.C. 630, 632 (1880); *Gray v. State*, 77 Tex. Cr. R. 221, 224 (1915).
12. *Commonwealth v. Demain* (Pa. 1846), F. Brightly, *Reports of Cases, Judges of the Supreme Court* 441 (1851).
13. W. Clark and W. Marshall, *A Treatise on the Law of Crimes* 394-396 (J. Kearney 5th ed. 1952); *Wharton’s Criminal Law and Procedure*, Vol. II, Sec. 742, p. 561 (R. Anderson 12th ed. 1957). See Quay, “Justifiable Abortion—Medical and Legal Foundations,” 49 *Geo L.J.* 395, 447-520 (1961).
14. *Gray v. State*, 77 Tex. Cr. R. 221, 226 (1915).
15. N.Y. Correct. sec. 657(2).
16. The following is a non-exhaustive sampling of such statutes: see e.g. Ala. Code sec. 15-18-86; Ariz. Rev. Stat. 13-4025; Cal. Penal Code sec. 3705, sec. 3706; Ga. sec. 17-10-39; Ind. Code 35-38-6-10; Mass. Gen. L. ch. 279, sec. 62; Nev. Rev. Stat. (NRS) 176.465, NRS 176.475; Ohio Rev. Code 2949.31; S.D. Codified Laws 23A-27A-27, S.D. Codified Laws 23A-27A-28; Utah Code 77-19-8 (2)(b)(i).
17. U.S. Const. art. VI, cl. 2.
18. Means, *The Phoenix*, 17 N.Y.L.F. 335, 404 (1971).
19. *Roe v. Wade*, 410 U.S. 113, 157 (1973).

20. *Webster v. Reproductive Health Services*, 492 U.S. 490, 501 (1989). “Protectable interests in life, health, and well-being” are the essence of personhood. *In re Estate of Stratton*, 165 Vt. 7, 674 A.2d 1281 (1995); *People v. Guzzardo*, 4 Ill.App.2d 355, 124 N.E.2d 39 (1955); 2 A.W. Scott & W.F. Fratcher, *The Law of Trusts*, sec. 112.3, at 166 (4th ed. 1987); “Persons are the subject of rights and duties; and, as a subject of a right, the person is the object of the correlative duty, and conversely,” *Black’s Law Dictionary* 1300 (4th ed. 1951); “In books of the Law, as in other books, and in common speech, ‘person’ is often used as meaning a human being, but the technical legal meaning of a ‘person’ is a subject of legal rights and duties,” J. Gray, *Nature and Sources of Law*, 27 (2d ed. 1927).
21. *Webster v. Reproductive Health Services*, 492 U.S. 490, 504-505 (1989).
22. *Ibid.* at 506.
23. *Ibid.*
24. *Ibid.* at 517.
25. *Ibid.* at 519.
26. *Ibid.* at 519-520.
27. *Gonzales v. Carhart*, 550 U.S. 124, 147 (2007) (citing *Planned Parenthood Fed. v. Ashcroft*, 320 F.Supp.2d 957, 971-972 (N.D. Cal. 2004).
28. *Planned Parenthood v. Rounds*, 530 F.3d 724, 736 (2008). My thanks to Professor Teresa Collett for pointing out to me this case and its utilization of *Gonzales*.
29. “We do not understand this point to be contested by the parties.” *Gonzales v. Carhart*, 550 U.S. 124, 147 (2007). See Gregory J. Roden, “Overturning *Roe* in a Heartbeat,” 35 *Human Life Review*, nos. 1 & 2, 101 (Winter/Spring 2009).
30. *Roe*, 410 U.S. at 159.
31. This does not, however, preclude the Court from holding the denial of personhood to the unborn by a particular state to be a Fourteenth Amendment violation of the unborn person’s rights. The pervasive state recognition of the rights of unborn children under property, tort, wrongful death, inheritance, and, prior to *Roe*, criminal law lends itself to the argument that the right to life of unborn persons “is of such a character that it cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions.” *Powell v. State of Ala.*, 287 U.S. 45, 67 (1932). Moreover, the writ *de ventre inspiciendo*, as per *Botsford*, is a due-process protection by the states of unborn persons. Ergo, the *Spooner* case, others like it, and similar statutory law clearly refute Blackmun’s claim in *Roe* that there were no cases holding unborn children to be persons under the Fourteenth Amendment.
32. *Dalton v. Little Rock Family Planning Services*, 516 U.S. 474, 476 (1996).
33. *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996).
34. *Roe*, 410 U.S. at 168 n.2 (Stewart, J., concurring).
35. Roden, “Unborn Children as Constitutional Persons,” 25 *Issues in Law and Medicine*, no. 3, 185 (2010); Roden, “Prenatal Tort Law and the Personhood of the Unborn Child: A Separate Legal Existence,” 16 *St. Thomas L. Rev.* 207 (2003); Roden, “*Roe v. Wade* and the Common Law: Denying the Blessings of Liberty to our Posterity,” 35 *UWLA Law Review* 212 (2003).
36. *Herb v. Pitcairn*, 324 U.S. 117, 125-126 (1945).
37. *Printz v. United States*, 521 U.S. 898, 924 (1997).
38. *Ibid.* at 905.
39. *Roe*, 410 U.S. at 157.
40. *Ibid.* at 159.
41. It has been urged that if states were “free to declare a fetus a person” then states might “curtail” other humans’ rights under the Fourteenth Amendment by declaring other species to be persons. Ronald Dworkin, “Unenumerated Rights: Whether and How *Roe* Should be Overruled,” 59 *U. Chi.L.Rev.* 381, 401 (1992); *Planned Parenthood v. Casey*, 505 U.S. 833, 913-914 (n.2) (1992) (Stevens, J., concurring in part and dissenting in part). This is of the same genus of reasoning found in *Dred Scott v. Sandford*, wherein African Americans were denied federal citizenship so as to not adversely affect the Fifth Amendment property rights of slaveholders. Ironically, the Fourteenth Amendment was enacted to remedy the effects of *Dred Scott*, see *In re Slaughter-House Cases*, 83 U.S. 36, 73 (1872). Moreover, the case of *Commonwealth v. Bathsheba Spooner* illustrates the absurdity of this red herring in that it has been the constant “historical understanding and practice” for the states to recognize unborn human beings as persons. It simply does not follow that the states also would possess the power to recognize other species as persons, as that is obviously against “historical understanding and practice”—the inference is

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a non sequitur. Lastly, this argument cuts both ways, as it may also be suggested (again, against “historical understanding and practice”) that the federal government has the power to declare animals to be persons “just as guardians are appointed today for infants.” Wesley J. Smith, “So Three Cows Walk into Court . . .”, 35 *Human Life Review*, no. 3, 98 (Summer 2009).



“When you say it’s pre-war, what war are you talking about?”

From the Klan to the Court:

A Brief Analysis of Alien Ideas

Donald DeMarco

On May 23, 1992, Pope John Paul II beatified Eulalie Durocher and declared her to be “a woman for all times.” Blessed Eulalie was born in Quebec in 1811, the tenth of eleven children, in the village of St. Antoine on the Richelieu River. Three of her brothers became priests and a sister entered the Congregation of Notre Dame. In the year 1843, recognizing how little opportunity young girls at that time had for education, she founded the Sisters of the Holy Names of Jesus and Mary. It was the first religious congregation in Canada to focus on education. After only six years as Superior of the Order she founded, Blessed Eulalie Durocher passed away. (Her order, nonetheless, continued to flourish. Today there are approximately 570 SNJM Sisters and about 400 Associates carrying out the Society’s mission on four continents.)

In 1859 Francis Norbert Blanchet, the first Archbishop of Oregon City, Oregon, invited 12 SNJM Sisters to leave Quebec to bring their education ministry to his diocese. Their mission was directed toward the full development of the human person through education, social justice, contemplation, and the arts.

The good Sisters did not think that they were imposing foreign ideologies or un-American ideas on the Oregonian children they taught. They saw themselves as helping their students to become mature, educated persons capable of acting as socially responsible citizens in the world. However, by the early 1920s, the rejuvenated Ku Klux Klan saw them from a rather different perspective and sought to protect Oregonian children from what the Klan believed to be alien and un-American ideas.

In the early 1920s, Oregon was home to approximately 14,000 members of the Ku Klux Klan, including the mayor of Portland, many politicians, and police officers. They regarded themselves as “real” Americans and felt duty bound to target the Catholic Church, the largest provider of private education. Fiery crosses and marches in Ku Klux Klan regalia were common sights in Oregon at that time. Thus began a heated clash between the Klan’s narrowly conceived form of nationalism and a religious pluralism that seemed protected by the United States Constitution. It was, indeed, a strange clash, since the Klan’s own Protestantism and many of members’ ancestors came from foreign lands. Even their name, Ku Klux Klan, appears to be exotic, being derived from the Greek word *kuklos* (μ),

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meaning “circle” and the Scottish Gaelic *clann*, referring to a group of people joined together for a common purpose.

The Klan was instrumental in electing Democrat Walter M. Pierce governor of Oregon. While governor-elect, he appeared before the La Grande Provisional Klan on November 21, 1922 and personally thanked the Klansmen for their support. More important for historical purposes, the Klan also played a significant role in getting The Oregon Compulsory Education Act passed in 1922. The Act compelled all children between the ages of eight and sixteen to attend public schools. If implemented, it would mean the dissolution of all Catholic schools in the state of Oregon, along with all other private schools. The Sisters, who at that time operated many schools in Oregon, did not sit idly by. They sued and the case came before the United States Supreme Court.

Representatives for the state of Oregon (the “appellants”) argued that the state had an overriding interest in overseeing and controlling the providers of education. In fact, they claimed that the state’s interest in overseeing the education of its citizens was so great that it overrode the parents’ right to choose which provider of education was best for their children. It was even argued that Oregon children are “the State’s children.”

By contrast, the “appellees” replied that the state did not have a right to absolute control over the system in which a child should be educated. They held that parents have a right to send their children to the schools they saw fit, including religious schools. There was nothing in the records to indicate that the Society had failed to discharge its obligations to patrons, students, and the State.

After deliberating for 10 weeks, the Supreme Court issued its unanimous decision on June 1, 1925, in *Pierce v. Society of Sisters*. In overturning the Oregon statute, the Court stated as follows: “The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”

The Oregon Compulsory Education Act, the Court went on to state, “is an unreasonable interference with the liberty of the parents and guardians to direct the upbringing of the children and in that respect violates the Fourteenth Amendment.”

The *Pierce* decision referred to *Meyer v. Nebraska* (1923) as a precedent that invalidated a state law which prohibited foreign language instruction for school children. This decision clearly affirmed that the Constitution protects the preferences of the parent in education over those of the State.

Many other Supreme Court decisions have upheld the right of parental rights—which conforms to the Principle of Subsidiarity enunciated by Pope Pius XI in

Quadragesimo Anno (1931). *Wisconsin v. Yoder* (1972) stated that the “primary role of the parents in their upbringing of their children is now established beyond debate as an enduring American tradition.” *Quilloin v. Walcott* (1978) declared: “We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected.” *Parham v. J.R.* (1979) affirmed that “Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course.”

Thus, the Society of Sisters of the Holy Names of Jesus and Mary defeated the Ku Klux Klan and was instrumental in restoring Catholic and other forms of private education in the state of Oregon. The *Pierce* ruling was also a victory for universal thought, erroneously labeled by the Klan as “alien” or “foreign,” over insular thought that proved to be both tribal and truly un-American.

Despite the *Pierce* decision, which appears to be both constitutional and just, it is wise not to idealize the U.S. Supreme Court and its members. President Franklin Delano Roosevelt’s first appointee to the Supreme Court was Hugo Black, who had joined the Ku Klux Klan in 1923. Black had won election to the Senate with KKK support and remained politically indebted to the organization until the early 1930s.

In our own era, this journal began in response to a 1973 Supreme Court decision that elevated personal choice over unborn human life in *Roe v. Wade*. In the 1989 *Webster v. Reproductive Health Services* decision, the U.S. Supreme Court used the notion of “freedom of personal choice in matters of marriage and family life” to justify abortion. It thus reaffirmed *Eisenstadt v. Baird* (1972), which ruled that “the right of the individual, married or single, to be free from unwarranted government intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget or abort a child.” Yet, the protection of unborn life is not an “intrusion.” The arbitrary use of this word presumes that it is the woman’s freedom to abort that must be protected and not the unborn child’s life. Ironically, *Webster* buttressed its defense by citing (and more than once) the *Pierce v. Society* ruling. The majority agreed that

Certainly the interests of a woman in giving of her physical and emotional self during pregnancy and the interests that will be affected throughout her life by the birth and raising of a child are of a far greater degree of significance and personal intimacy than the right to send a child to a private school protected in *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), or the right to teach a foreign language protected in *Meyer v. Nebraska*, 262 U.S. 390 (1923).

Catholic thinking, on the other hand, would find the notion of abortion alien to the essence of *marriage* and the *family*, terms that have nothing but positive connotations. One may recall *Parham v. J.R.* where the Court, affirming both

Pierce and *Meyer*, stated that “Our jurisprudence historically has reflected Western civilization concepts of the family unit . . .” Is not abortion alien to the “family unit”? By defining “liberty” as broadly as it did, the Court in *Webster* continued on the path of *Roe*, passing over the moral implications of abortion and regarding it as nothing more than a species of generic freedom. Needless to say, not any free act whatsoever is constitutionally protected. Moreover, it seems gratuitous to hold that an “interest,” in the language of the Court, can be greater than a “right.” An interest may indeed be broad, but without necessarily being morally or politically justifiable. Macbeth and his wife had a strong interest in attaining the throne and living happily thereafter as King and Queen. But their “interest” hardly justified the murder of the elderly King Duncan.

The *Pierce* decision did not regard ideas presented by private schools, specifically Catholic schools in the state of Oregon, as un-American, that is, as alien to the education of Americans. By implication, it ruled against the Klan’s position that Catholic ideas, because they are allegedly “foreign” to America, are in any way damaging. *Pierce* is a victory for legitimate pluralism and a defeat for insular xenophobia.

However, a series of Supreme Court decisions, beginning with *Roe v. Wade* in 1973, have consistently regarded the notion of “protection for the life of the unborn child” as both alien to the Constitution and alien to the protected freedom of the pregnant woman. Consequently, this notion becomes, according to the deliberations of the Court, as “foreign” as the Klan in Oregon found Catholic ideas to be “foreign” to the Americanization of young students.

The only judicially relevant notion of a “foreign idea” is one that is injurious to a person. Catholic ideas are not injurious. They are universal, enlightening, and capable of benefitting all people. They are consonant with Greek philosophy, Roman law, medieval theology, English literature, Italian poetry, and American jurisprudence. They are *essential* ideas, and certainly not ideas that are confined to Catholics.

In the *Pierce v. Society of Sisters* decision, the Supreme Court ruled in favor of the dissemination of Catholic ideas. In focusing on the “parental liberty” aspect of that decision, however, subsequent Supreme Court decisions favoring abortion expropriated the *Pierce* rationale to their own purposes. Thus the inconsistency of Supreme Court rulings comes into view. In essence, *Pierce* ruled, contrary to the Klan, that private schooling does not impose foreign or un-American ideas on young students. The Court reasoned that sending children to private schools is constitutionally protected. *Roe* and subsequent abortion decisions, on the other hand, ruled that prohibiting a woman from having an abortion is foreign to the Constitution. Yet the right to live can hardly be construed as foreign to the essential needs of the unborn child. *Pierce* ruled, in effect, that Catholic ideas are

not un-American and not contrary to the Constitution, but the Supreme Court ruled later that they are not constitutional insofar as they demand justice of the unborn.

Great ideas are timeless. Yet even great ideas are subject to trends and fashions. Does the present epoch favor liberty over justice? Has it lost the wisdom necessary to balance these two great ideas? Is the present culture selective in its adoption of great ideas?

Mortimer Adler, in his book, *Six Great Ideas*, distinguishes the “ideas we judge by” from the “ideas we act on.” The first group includes Truth, Goodness, and Beauty. The second group includes Liberty, Equality, and Justice. Mindful of how easy it is for people to regard ideas as subjective, Professor Adler instructs his readers that the six great ideas he discusses are truly “six great objects of thought.” His framework, therefore, is essentially realistic. In fact, this sextet of ideas would not merit the adjective “great” unless they were eminently realistic.

Despite their traditional status as “great,” these ideas, nonetheless, in the present milieu, are not accorded greatness equally. Truth is commonly a victim of relativism, and so is goodness. Any person who claims to know a truth is regarded with suspicion. The current trend encourages open-mindedness, even if that stance prohibits ever closing on a truth. Goodness often appears arbitrary and elusive. One man’s treasure is another man’s trash. Beauty is simply dismissed as a reliable category because it is presumed to be entirely subjective (“Beauty is in the eye of the beholder”). In this way, the current fashion removes the greatness from this trio of great ideas. As a result, Truth, Goodness, and Beauty have been culturally downgraded to mere opinion.

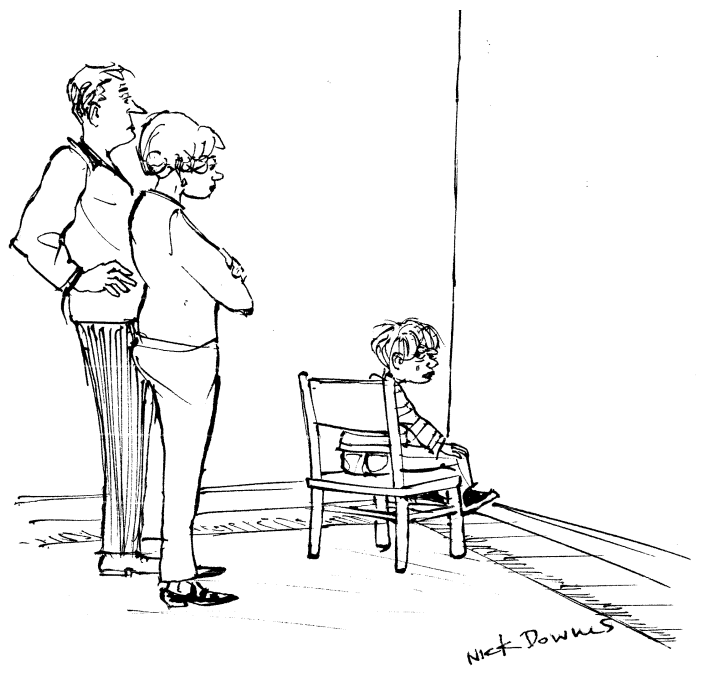
The ideas of Liberty, Equality, and Justice, however, do remain in vogue. In *Planned Parenthood v. Casey*, the Court spoke of “liberty” in both glowing and sweeping terms: “At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of life.” “Equality” has proved to be an invincible tool and most effective rallying cry for the feminist movement. And everyone is a staunch advocate of “social justice.” Meanwhile, Truth, Goodness, and Beauty continue to languish in the untrustworthy realm of subjectivity.

What seems largely ignored is the fact that by vitiating the “ideas we judge by,” we have inadvertently disabled the “ideas we act on.” It is axiomatic that we should judge before we act, just as we should know before we choose. The speculative, by nature, precedes the practical. For example, it is impossible to act justly if one does not know the truth. The word “verdict” is derived from *verus* (truth) and *dicere* (to speak). The judgment of the guilt or innocence of a person charged in a court of law must be based on truth. In other words, the judge’s pronouncement is

a way of acting justly by speaking the truth—that is, by rendering his decision on the basis of the truth. If there is no basis in truth, there can be no justice. Similarly, a person is not free to be himself without affirming his own goodness. Also, a person is not likely to be just unless he is good. In fact, justice is an expression of goodness. Finally, beauty is related to truth. “Beauty is truth, truth beauty,” said Keats. There is a splendor to truth, as well as to justice that is beautiful. This is the common conviction of the ages.

The great ideas do not contradict each other. They are mutually harmonious. In fact, they exist for each other. They are synchronistic. Perhaps another great idea is needed in order to bring these ideas into unity, that being *wisdom*. Apart from wisdom, the great ideas will be in conflict with each other. One result is that some of them will be regarded as “foreign,” while others will be labeled “unfashionable” or even worse, “politically incorrect.”

Blessed Eulalie Durocher appears to be “a woman for all time,” as Pope John Paul II referred to her, because she held to the values of great ideas and did not capitulate to the trends and fashions of her time. The extraordinary feature of great ideas is that they combine two things that appear to be eternally antagonistic to each other: namely, the present and the future, now and forever, life in the moment and in all the moments to come. As C. S. Lewis put it, “All that is not eternal is eternally out of date.”



“Soon enough, you will bow down before me.”

Abortion “Rights” and the Duty Not to Know

Edmund C. Hurlbutt

Perhaps the most frustrating counter-argument that pro-lifers constantly confront is the charge that we are making a fetish of a “single issue.” Nothing—not the sheer moral horror of a mother deciding to kill her own child, the revulsion that attends the methods employed, or the staggering body count—seems to suffice to explain to others why pro-lifers view the issue as so central to our society.

We come closer, no doubt, when we argue that without protection of the right to life no other right is possible. But then comes the response: Myriad ways exist to protect the “right to life”—through food aid, better medical care, or better protection of the environment—and preventing abortion is just one of them. Worst of all, the “single issue” argument is often used to most telling effect not by our outright opponents, but with those who are unsure about the issue or even those who agree that unborn children have a right to life. This dilutes the urgency of our warning that civilization itself is at stake, and that legalized abortion is thus the supreme issue—the *singular* issue, not merely a single issue—for our society today.

So how best to make our argument for this claim? One good way, I think, is to show how the “right” to an abortion includes an implicit “duty not to know” the truth about abortion, and how the interaction between this duty and the disputed abortion right destroys the very coherence of our society.

The Duty Not to Know

Every human right contains an inherent—if often only implicit—human duty, one that must be generally observed if the practice of the right is not to become impossible for individuals or intolerable to society at large. Thus the right to freedom of the press, for example, would soon become insupportable without observance of the corresponding duty to respect the truth, at least insofar as to avoid libeling others. The right to free enterprise likewise entails parallel duties to reasonably protect the health and safety of one’s employees and to avoid polluting the environment. And the right to live in a free and democratic society imposes the duties to be an informed voter, to pay taxes, to obey the legitimate orders of peace officers, and even to risk life and limb by taking up arms in defense of the nation’s existence.

In other words, human rights can peacefully be exercised only where the

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overwhelming majority of individuals—whether by personally observing those duties themselves or by enforcing them on others through social ostracism of violators—and *society as a whole* through its laws adhere to the duties entailed in those rights. Avoidance of slander is thus not legally optional, nor is the paying of taxes, nor failure to protect one’s workers.

If legalized abortion is a constitutional “right,” then, what is the “duty” that corresponds to it? And what are the customs and laws that enforce the duty’s acceptance?

The evidence indicates, as I have already suggested, that the duty which accompanies the “right to an abortion” is a “duty not to know” what abortion really is. That duty began to take shape in the very 1973 *Roe v. Wade* decision that legalized abortion. “We need not settle the difficult question of when life begins,” Justice Harry Blackmun wrote in his opinion for the Court majority—feinting toward intellectual humility, as if the issue were in doubt for any reasonably aware person. A fulsome profession of biological ignorance was thus laid as the very foundation of the “right” to an abortion.

Roe, however, could not remain secure on such a flimsy basis. Since the peaceful exercise of any right depends on widespread public assent to it, *Roe*’s mere assertion of biological ignorance was simply too preposterous a basis on which to gain such assent. Such a radical break with both constitutional tradition and human decency thus quickly came to depend not merely on a claim of ignorance, but on a positive public duty not to know the truth about abortion.

The right to “privacy” within which the *Roe* Court discovered the right to abortion is itself an implicit act of enforced ignorance on those who might object. It obligates opponents, in effect, to agree that they have no intellectual right to know that abortion takes a human life, nor any moral right to know it is heinously wrong. Abortion is a private matter and thus requires ignorance from you in order to preserve the social peace.

Similarly, the “reasoning” by which the court found the right to abortion in the right to privacy—from the “emanations” and “penumbras” of the Fourteenth Amendment, from its gaseous output and its murky shadows—also implicitly imposed *Roe*’s intellectual smoke and mirrors on everyone. It said, in effect: We really don’t know where the right to abortion is found in the Constitution, but that doesn’t matter since we don’t even owe you an intelligent explanation. We are just asserting this “right” and you are duty bound to accept it. Or, as Justice Byron White put it in his stinging dissent: *Roe* was not an act of informed legal reasoning meant to persuade others, but an act of “raw judicial power.”

Once the Court signaled the need to impose a society-wide duty not to know in order to sustain the right to abortion, advocates of legalized abortion quickly moved to advance this “duty” both legally and socially. In many instances, the duty came

primarily as enforced biological and medical ignorance on women seeking abortions. Planned Parenthood and similar groups have thus vehemently opposed informed-consent laws, for example: laws that require women considering abortion to be offered information on fetal development, the risks of abortion to the mother, and the alternatives to it. They also oppose parental-notification and consent laws that require parental participation in a minor girl's decision to abort.

Pro-life centers that offer women medical services, information on fetal development and abortion, and help in securing alternatives to abortion are also relentlessly attacked. One attorney general of the state of New York started a harassment campaign against these centers by issuing subpoenas to 24 of them, alleging that they were misleading women and practicing medicine without a license. (After a public outcry, the attorney general backed down.)

It is not just biological information that pro-abortion groups have attacked, but moral appeals to abortion-minded women as well. Pro-life sidewalk counseling—a last-ditch effort to inform women of the truth and personally appeal to them for their child's life as they prepare to enter an abortion center—has similarly been attacked. Numerous cities have enacted “bubble zones” around abortion facilities: laws that literally destroy the right to free speech in public places like city sidewalks by making it illegal to approach, whether with words, pamphlets, or photos, women going in. Still worse, the Supreme Court has upheld the constitutionality of this betrayal of a defining American right (*Madsen v. Women's Health Center*, 1994, and *Hill v. Colorado*, 2000).

The list goes on and on. Pro-abortion groups have filed suit against various states that allow “Choose Life” specialty license plates. Numerous universities and colleges have denied pro-life students the right to form on-campus groups or even to distribute pro-life information. The medical profession has changed its lexicon: The term “conception,” for example, was changed from the perennial understanding as the moment when sperm and egg unite to the time when the developing embryo implants in the lining of the womb—so as to disguise the abortifacient quality of numerous contraceptives.

In still more instances, the efforts are even more sinister, because they directly attack the conscience rights of pro-life medical professionals—by enforcing, whether by social pressure or institutional policy, a direct duty to participate in abortions. As the National Right to Life Committee reported in March 2009 on several decades of such coercion (in a statement worth quoting at length):

In 1982, a case study published in the *Brigham Young University Law Review* revealed that approximately 5% of the nurses thought that their job advancement and assignment opportunities may be limited by their religious and moral beliefs regarding abortion, which the authors extrapolated to equal approximately 50,000 of America's nurses. . . .

In March 1996, a case study published in *Issues in Law & Medicine* revealed that applicants for medical school were being screened for their views on abortion, and bias against applicants' opposition to abortion was expressed during evaluations for admission.

[In 2009,] the Christian Medical Association reported that more than 40% of its membership surveyed reported having experienced pressure to violate their convictions, with “physicians . . . losing positions and promotions because of their life-affirming views” and “residents . . . losing training privileges because they refused to do abortions.”

Perhaps one of the most alarming developments in the increasing effort to force health care providers to participate in abortion against their convictions came in 2007. In November of that year, the American College of Obstetricians and Gynecologists' Committee on Ethics issued an opinion declaring that obstetrician-gynecologists who are conscientiously opposed to abortion nevertheless have a duty to refer for abortion, and in certain circumstances, to perform abortions. This opinion was particularly dangerous because of its possible repercussions for pro-life doctors, as the Catholic Medical Association explained at the time: “If physicians refuse to go along with these demands they risk having an ethics complaint filed against them, and this could cause them to lose their certification through the American Board of Obstetrics and Gynecology. Because hospitals use board certification to grant hospital privileges, pro-life physicians could lose their ability to admit patients to hospitals.”

The ACLU, in addition, has filed multiple complaints demanding federal investigations of Catholic hospitals that refuse to perform abortions even when women face dangerous complications of pregnancy or seek “morning after” pills following rapes—pills that can kill an incipient human life. The Catholic Church, in other words, cannot be allowed to know—indeed it has a positive legal duty not to know, because it *must* provide such services—the biological and moral truth about abortion.

Whole states, meanwhile, have—acting through their state supreme courts or legislatures—forced all citizens to pay for tax-funded abortions, thus enforcing a duty not to know the abortion kills an innocent human being.

Finally, in its 1992 *Planned Parenthood v. Casey* decision reaffirming the original *Roe* ruling, the Supreme Court explicitly asserted a nationwide moral, if not legal, duty not to know the truth about abortion. Justice Anthony Kennedy proclaimed:

Where, in the performance of its judicial duties, the Court decides a case in such a way as to resolve the sort of intensely divisive controversy reflected in *Roe* and those rare, comparable cases, its decision has a dimension that the resolution of the normal case does not carry. It is the dimension present whenever the Court's interpretation of the Constitution calls the contending sides of a national controversy to end their national division by accepting a common mandate rooted in the Constitution.

Such judicial hubris is both breathtaking and alarming, of course, but it clearly reveals the extent and depth of the societal issues at stake in the “single issue” of

legalized abortion. Kennedy here implicitly admits that the right to an abortion can be sustained only if the entire nation gives up not merely its free speech rights, or its right to petition the government, but its very ability to think. After all, since the overwhelming majority of Americans do *know* the horrible truth that abortion takes an innocent human life, only the generalized imposition of a public duty not to know that truth suffices to prevent the right to abortion from dissolving in social outrage.

The Consequences of the Duty

The effects of this “duty not to know” extend far beyond the debate over legalized abortion. Because it imposes universal ignorance on the most basic social question of all—who even qualifies as a human being and whose life is protected by law—the duty not to know thus necessarily collapses society as a whole.

Demolishing the Declaration. Every society, all laws, and every culture throughout history have been founded on the assertion that at least some people in society can *know* certain *truths* about what it means to be a human being and can thus publicly decide how societies are to be organized. Ancient Egypt, Classical Rome, Christian Europe, Mandarin China, Soviet Russia: In every instance someone, some group, had to know who is to be included in that society and how it is to be run.

The American experience is no different, except in this crucial regard: The Declaration of Independence proclaims that *every* human being can know what it means to be a human being, and thus know the nature and foundation of a just society. “We hold these *truths* to be *self-evident*, that all men are created equal and endowed by their Creator with certain inalienable rights and that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.”

The Declaration is not just a proclamation of individual rights, then, but the assertion of a universal morality. Human beings are not just creatures who *possess* rights, the Declaration insists. We are also creatures who can *know* the truth about human rights: We can know the truth about what a human being is, and what a just government is, and thus what a decent society looks like, *and can thus be morally required to observe these truths* in our personal relations and in the founding of “just governments.” And it is upon this *dual* affirmation—of being creatures with rights *and* creatures who know the moral truth about our own rights, about the rights of others, and about a just social order—that the Declaration founds American democracy.

Jesuit priest Father John Courtney Murray is probably the most celebrated American philosophical figure to defend this dual proclamation: to explore how

the Declaration's very proclamation of rights depends on its simultaneous proclamation of universal access to moral truth. In his seminal 1960 work *We Hold These Truths: Catholic Reflections on the American Proposition*, Murray insists:

The American Proposition rests on the forthright assertion of a realist epistemology [i.e., on the assertion that all human beings can accurately know reality as it actually is]. The sense of the famous phrase [in the Declaration] is simply this: "There are truths, and we hold them, and we here lay them down as the basis and inspiration of the American project, this constitutional commonwealth." . . . The life of man in society under government is founded on truths, on a certain body of objective truth, universal in its import, accessible to the reason of man, definable, defensible.

Public *moral* truth—"definable, defensible"—is thus the foundation of American civilization.

The Supreme Court's ultimate foundation for the abortion-rights regime, however, could not be farther from the Declaration's proposal. Compelled by the sheer biological absurdity of *Roe*, as well as its preposterous claim that a procedure—which takes place for profit, in doctors' offices, and is advertised in phone directories—is a "private" matter, the Court struggled to find a firmer intellectual foundation for the duty not to know. Thus the Court abandoned mere ignorance as the foundation of that duty in favor of a metaphysical and moral "truth" of its own. Writing in *Planned Parenthood v. Casey*, Justice Kennedy declared: "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life."

There is, then, no shared truth—only everyone's purely personal, purely private, purely individual "concepts" of existence and meaning. But this means that the chief dynamic of society is the attempt to impose one's "own" concept of such things on as many other people as possible; and government is reduced from a common moral project to the mere enforcer (albeit armed with guns) of an uneasy, and always temporary, social accommodation of morally isolated individuals. *Roe v. Wade* and *Planned Parenthood v. Casey* are thus not a Declaration of Independence—a declaration of truth—but a Declaration of War: the horrifying war of "all against all" that every human society without exception has been meant to preclude. They leave the most important decision any society can make—who counts as a member and who does not—to moral anarchy.

That is why Fr. Murray insisted:

If this assertion [of the Declaration of Independence] is denied, the American Proposition is, I think, eviscerated at one stroke. . . . The American Proposition rests on the . . . conviction that there are truths; that they can be known; that they must be held; for, if they are not held, assented to, consented to, worked into the texture of institutions, there can be no hope of founding a true City, in which men may dwell in dignity, peace, unity, justice, well-being, freedom.

Or, to cite the words of Blessed Teresa of Calcutta, “If a mother can kill her child, what is left for me to kill you, or you to kill me?”

Abolishing Freedom. Nature abhors a vacuum, however, and once public assent to the Declaration’s assertion of a publicly knowable anthropology—and its attendant morality—has been annihilated by the duty not to know, then in order for a functioning society to still exist these things must be replaced. Society must be organized on *some* basis, after all: There must be certain common expectations on how we *should* interact with other human beings—what others can expect from us on an ongoing basis—for otherwise the moral and intellectual anarchy loosed by *Roe* and *Casey* would produce social chaos.

In the United States, however, few alternatives exist. A single religion cannot fill the void as it might in other nations: The U.S. is a hodgepodge of denominations and faiths. A single ethnicity is not a helpful alternative: America prides itself on generously welcoming every race and ethnic group. Nor can a common history any longer unite us once the Declaration’s claims are denied. American history is literally the working out of the implications of the Declaration; abandoning its moral claims thus destroys the taproot of the American story.

So what is the new public anthropology—with its attendant public morality—that now fills the void for American society? The evidence suggests that it is the definition of human beings as mere *consumers*—of things, experiences, and even other people—and thus a new public morality of consuming *efficiently*. Upon such measurements we now form our government and build our society. Examples of this new anthropology and its morality abound. Sexual morality, for example—one of the most profound organizing principles for every human society always and everywhere—has become completely culturally unhinged from the demands of nature and nature’s God and reduced to mere enjoyment of pleasure, the “consumption” of other people in emotionally and socially disconnected sex to achieve that pleasure.

Practices historically rejected by human societies—promiscuity, living together outside marriage, “gay marriage”—are thus now almost commonplace. Meanwhile, the only “morality” expected is that one consume efficiently: by not passing on sexually transmitted diseases, including the “sexually transmitted disease” of unwanted pregnancy, as numerous pro-abortion advocates have termed it.

As with any human right, however, the duties entailed in supporting its general acceptance cannot be confined to mere social custom or pressure. The power of the law must also be brought to bear. Thus government does not engage its new role in organizing society and promoting the new public morality regarding sex merely through “soft” means, including training students in “safe sex” (i.e., in efficient sexual pleasure), providing literally billions of contraceptives both here and around the world, and spending billions on finding a cure for AIDS. More

chillingly, various state governments now legally abrogate the freedom of parents to raise their children according to their own moral and religious values, by allowing girls as young as 12 or 13 to get abortions or contraceptives without parental knowledge or consent.

In much the same way, “pro-choice” American feminists and politicians can support China’s horrific one-child-per-family regime—which includes massive numbers of forced abortions and sterilizations—and can even support funding the program with both public tax and private foundation money. Social pressure alone will not produce the measurably beneficial number of consumers, in other words; only government power will.

Numerous proponents of the new morality—not only fringe, but mainstream ones—even argue for a similar population-control regime for the United States. In 2009, for example, President Barack Obama appointed prominent Harvard professor John Holdren as his administration’s “science czar”—director of the Office of Science and Technology Policy. Holdren, however, is a self-professed “Neo-Malthusian” and has publicly supported a worldwide regime of forced abortion to control population. As Lifesitenews.com reported:

In a 1977 published book entitled *Ecoscience: Population, Resources, Environment*, Holdren [argued] . . . that governments may curtail individual human rights “where society has a compelling, subordinating interest in regulating population size.”

Examples put forward . . . include the possibility of forced abortion to meet population quotas, sterilizing populations through intentionally tainting the water-supply with infertility drugs, mandating unwed and teen mothers to choose between abortion or giving their children up for adoption, and the imposition of a “Planetary Regime” to enforce policies of population control, with one enforcement mechanism being a global transnational police force.

“Indeed, it has been concluded that compulsory population-control laws, even including *laws requiring compulsory abortion, could be sustained under the existing constitution* if the population crisis became sufficiently severe to endanger the society,” wrote Holdren on page 837. [Italics added. Lifesitenews.com, July 14, 2009.]

In a similar way, it is morality based on measurements—financial and otherwise—that are leading more governments, primarily in the wealthiest nations in the world, to impose rationing of health care for the medically dependent, the elderly, and the handicapped. That is, such governments want to *legally prevent* these individuals from accessing medical care: even if they want it, their doctors recommend it, they can afford it on their own or even buy insurance to cover it. This is taking place even in the U.S. (See, for example, the National Right to Life Committee’s report on “Repealing Rationing: Rationing in the Obama Health Care Law of 2010,” nrlc.com, 2011.) It is not just that such people consume large amounts of medical resources: The crucial point is that they are *inefficient* consumers of medical resources. Per medical dollar spent, the afflicted themselves

gain little “consumption”—whether going out to dinner, having sex, taking a walk, or even having longer lives. Their conditions, their very lives, moreover, impose inefficient emotional and financial demands on their families and friends. Per unit of emotion or effort invested, there is little or no return.

Conclusion

The “duty not to know” the truth about abortion—founded in a truth-denying “right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life”—thus lies at the heart of a terrible loss of freedom. After all, if no inherent, universally knowable “self-evident” public moral truth exists, *self-government* becomes impossible. If *measurement* is the new basis of public anthropology, public morality and thus government, government power must be ceded instead to the new experts in measurement: to a “scientific” elite which can determine the optimal number of human beings and the most efficient means to achieve it.

And rectifying the duty not to know—through laws protecting all innocent human life—is not an increase in government power, but a decrease. Right-to-life laws are the very foundation of limited government; they deny governments the authority to discriminate among various groups of human beings in protecting the most basic right of all, the right to life. Otherwise such “governments” fall into a thinly disguised tyranny. And legalized abortion gives government precisely that—truly totalitarian—power.

Finally, it cannot be over-emphasized that at stake in this struggle is not simply abortion as such, but *legalized* abortion. Were abortion made illegal, and that law justly enforced, abortion *would* become just one more “single” issue, one among many others, in the political context, since no law—against theft, slander, manslaughter, or even murder—can completely preclude all offenses against it. Other (private) means, such as pro-life pregnancy centers, would remain necessary. But since abortion is not illegal—because it is, indeed, the premiere constitutional “right” of our times—then freedom itself, for *all* of society, is threatened; and the human dignity of *all*, no longer found in reverence for *universal* human rights, is ultimately at stake.

The issue of legalized abortion is thus the political and cultural issue which surpasses any other claim on the human conscience today. It is the supreme human issue of our times. Without the protection of everyone’s right to life, neither the Declaration of Independence nor any real freedom can long endure.

Review Essay: George Dennis O'Brien's
The Church and Abortion: A Catholic Dissent

John M. Grondelski

America is currently marking the sesquicentennial of the Civil War: 150 years ago, Abraham Lincoln was inaugurated as the sixteenth President of the United States and, within a month, Southern rebels were firing on Fort Sumter. The causes of the War—regional economic differences, industrialization, different concepts of federalism—have long been debated by historians. There is no doubt, however, that one moral issue drove America towards Civil War: slavery. When the Supreme Court chose to deny the humanity of slaves in *Dred Scott v. Sandford*, transmuting a “peculiar institution” into a protected Constitutional right, the stage was set for the conflict.

With that historical anniversary in the background, I could not help wondering, as I read this book, what kind of arguments George Dennis O'Brien might have spun had he lived in 1861. Among his ostensible reasons for writing was a desire to cool the uncivil tempers surrounding the abortion debate, a climate he blames in no small measure on the “virulence” of the U.S. Catholic bishops’ “absolutism” on abortion.¹ I can imagine a tome that engages in the appropriate hand-wringing about “deep tragic” moral choices while claiming that his ethical straddling is no license for moral relativism. After conceding that a slave might have a “human life” (though obviously not a “personal” one in any way that 19th century elite opinion-makers—especially those with a vested interest in slavery—might regard “personal”), he would undoubtedly conclude that this merely biological life can hardly trump the full flowering of the master’s personality. Slavery might be a moral evil, but it isn’t always wrong.

Such topsy-turvy logic permeates the pages of this book, a combination of sophistry, half-truths, and *non sequiturs* dressed up with enough erudition and sufficient moral ponderings as perhaps to tempt some to take it seriously. Consider this: “Can the choice for an abortion—a choice against biological life—be a choice for life? . . . Pregnancy imposed by . . . cultural pressure or even a serious lapse in judgment may impose a future on a woman that seriously diminishes her life. One of the great strengths of the pro-choice cause is the emphasis on the woman living her own life, making her own choices. Pregnancy must be a woman’s

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choice if it is to be an expression of life.”² Of course, if abortion can be a choice for “life” then, of course, Blessed John Paul had it all wrong when he characterized one of the foundational conflicts of our modern era as the struggle between a “culture of life” and a “culture of death.” “Such talk is overblown rhetoric that exhibits an “apparent lack of respect for the contrary opinions of mankind—a class that includes many thoughtful Catholics”³ like O’Brien, Mario Cuomo, Geraldine Ferraro, Nancy Pelosi, et al., who have long been looking for excuses to explain why they are AWOL on what Richard John Neuhaus rightly called the premier civil rights issue of our time.⁴ Indeed, according to O’Brien, not only is the rhetoric overblown, it is false: “Equating abortion and ‘culture of death’ fails to locate authentic Christian preaching about life and death. Christianity stands over and against the lure of dark and lovely death, but demonizing abortion distracts from the true Biblical message.”⁵ Last time I checked, St. Paul⁶ described death—not certain deaths or unwanted-but-wanted deaths or “dark and lovely” deaths—as the last enemy to be vanquished in Christ. I also thought that the Christian message was about discovering one’s self through losing one’s self: “He who would save his life will lose it; while he would lose his life will save it.”⁷ That is hard to square with O’Brien’s claim that “Pro-life fails to accept the notion that abortion may reflect a deep life choice. Even if one accepts the notion that the fetus has significant moral status, a woman may have to make a tragic choice against this potential life. Tragic choice is tragic because it is a deep life choice. The woman summons the full range of her powers, arrays them against the disastrous situation that threatens to destroy not her biological life, but her value and person. Choosing her person, she chooses life.”⁸ In O’Brien’s world, one must assume that even the life of a child conceived as a result of a one-night stand (“a serious lapse of judgment”) cannot trump the “disastrous situation that threatens to destroy . . . [the mother’s] value and person.” After all the spilled ink and equivocation, what abortion would O’Brien call unjustified?

Every effort to justify abortion depends, of course, on disposing of the claim to life on the part of the unborn child. Naturally, O’Brien diligently seeks to do this. As the quotations cited indicate, he incorporates all the usual dehumanizations (“fetus,” “significant moral status,” “potential life”). And it is precisely here where O’Brien shows himself the master of sophistry, half-truths, and non sequiturs. He says he has “reviewed a good bit of the philosophical literature, both pro and con, about abortion” (p. 63), and it is apparent from his writing that he selectively uses this literature to advance his cause.

Take his attempt to dismiss the claim that a “right” to life imposes a concomitant duty to respect it. He trots out Judith Jarvis Thompson’s old saw about a person kidnapped in the course of the night, only to awaken to find himself tethered to a virtuoso violinist experiencing kidney failure. The linkage is the only way for the

violinist to survive. Does this give him the “right” to use my kidneys? O’Brien then trots out a whole series of ideas (“is” does not lead to “ought,” hence we cannot derive rights from being; people are not called to do extraordinary things; do we have enough facts to qualify the case) to try breaking the nexus between the existence of a right and an intrinsic duty to respect it. What he does *not* mention is that Thompson’s scenario is both bizarre and not analogous. Kidnapping someone to save Paganini is an artificial and criminal act. It is hardly analogous to the natural outcome of intercourse, which can potentially be procreative. The child conceived as a result of such intercourse is not unrelated to the mother. To invoke analogies of abduction to explain pregnancy is persuasive only if one is willing to forego the principle of cause and effect: having performed an act with potential effect *x*, of which I am aware, I cannot claim that it is unjust if that effect ensues. A normal person who walks out a tenth-floor window has no legitimate grievance against gravity. Nor have I confused “is” with “ought.” Gravity “is” operative and I probably “ought” to respect that nexus. I can, of course, freely will not to, but free will does not render the ground any less hard. This argument presupposes that no effect of a cause can have significance unless I voluntarily choose it and by doing so give it that significance. To follow that line of thinking consistently would require that the thinking subject be able to reconstruct reality—and reality generally rebels against such efforts.

O’Brien, of course, would insist that the ineluctable claims of gravity cannot be compared to the connection between sexual intercourse and potential procreation. His readiness to separate them, however, presupposes an underlying dualism. True to his dualistic view of the person, he categorizes the right to life movement as “fixated on biological life.” Why this deprecation of “biological life?” One cannot, after all, enjoy other human goods (thought, a good dinner, even writing bad philosophy) unless one is first biologically alive. Far from agreeing that it is a “fixation,” a normal person might think that “biological life” is a *sine qua non*.

The origins of this dualism in contemporary thought can be traced back to that “great philosopher”¹⁰ Rene Descartes, who, likewise uncomfortable with reality as he encountered it, tried to reconstruct reality from his mind outwards. “I think; therefore, I am,” may be a neat slogan, but, alas, it puts the cart before the horse: being precedes thinking, not vice versa. It is the dualists who equate the “person” with consciousness who are, in large measure, responsible for the advance of the culture of death into the dehumanization of not only the unborn but also the medically dependent elderly (such as Terry Schiavo) and the handicapped newborn (such as the Baby Doe case in Indiana in 1982). Although most children learn early on that “wishing don’t make it so,” those few who become dualist philosophers discover that in a world constructed on the basis of consciousness, reality

can be quickly shrunk to the parameters a particular thinker wants. Needless to say, such a philosophy of the person is incompatible with a Catholic view of the person, a relevant observation since O'Brien styles his work "a *Catholic* dissent." Why dissident "Catholics" need to clutch this dualism is a separate issue.¹¹

O'Brien continues his commitment to dualism elsewhere in his arguments. It is essential to his buy-in to the argument, advanced by pro-abortionists, that separates "human life" from "human persons." O'Brien conveniently fudges facts as they pertain to the DNA of those cells. He admits that the cells have human DNA, but that, in itself, is unpersuasive to him. Human DNA establishes no claim; what matters is the "moral weight" we assign to that fact. "The influential philosopher Peter Singer has argued that defective newborns and demented elders may respectfully be 'put to sleep.' Like the fetus, they lack higher function although they are certainly DNA-human bodies. If we regard the notion of killing off the defective and the demented as morally unacceptable, it is because we have *already* assigned a certain high value to the fact that we are dealing with something with significant moral weight"¹² While O'Brien concedes that "Singer's moral position is unacceptable," it is seemingly not because of the latter's attributive notion of human rights, since O'Brien himself shares that position, at least as regards the unborn child. The *fact* of human DNA itself has no moral claim for O'Brien: the fetus has DNA, so does a skin cell.¹³ Nowhere does he bother to explore the implications of the fact that the DNA of the fetus is different from that of the mother (and her skin cells), already indicating a differentiation between these two beings. What is "mere biological life" when life itself has value only after being assigned it?

O'Brien is convinced that American law and practical political choice reinforces his notion of attributive personality. He devotes an entire chapter¹⁴ to a discussion of the South Dakota Women's Health and Unborn Life Protection Act of 2006, which attempted to challenge *Roe et al. v. Wade*'s feigned agnosticism about when life begins by putting in place a legislative factual determination that life begins at conception. O'Brien repeatedly claims that the failure of the South Dakota law to treat and punish abortion as homicide indicates that even a pro-life legislature in a conservative state really did not believe that the termination of fetal life could be equated with killing a born person. He also makes great hay out of the refusal of Catholic bishops to campaign for such absolute criminalization, arguing that the failure to do so means that the episcopal anti-abortion rhetoric is overwrought (and if it isn't, would never legislatively prevail anyway).

While elsewhere O'Brien makes a big deal out of "practical wisdom" as a necessary correlate to the moral evaluation of abortion,¹⁵ "practical wisdom" deserts him when it comes to the question of the specifics of potential abortion restrictions. Again, the history of slavery can be instructive. One hundred and fifty years

ago, there were two broad camps: those that thought slavery was wrong and those that didn't. But even among the former, the question of *how* to respond to slavery was controversial. A handful of opponents, like John Brown, wanted to end slavery immediately, by arms if necessary, regardless of the cost or political possibility. A larger group opposed slavery but hoped it would die a natural death. Others, including Abraham Lincoln, hoped to hasten its demise by restricting its expansion in the territories, even while professing they would not interfere with slavery where it was already established. Was Lincoln any less an opponent of slavery when he restricted the scope of the Emancipation Proclamation to areas outside Union control? By the proclamation's terms, Lincoln "freed" slaves in Alabama, which he did not control, but not in Tennessee, which he largely did control. The fact is that while a broad cross-section of public opinion by the time of the Civil War accepted the principle that "slavery is wrong," there was much less consensus about *how* to accomplish its elimination, and actual politicians like Lincoln tempered their broad principles with more measured applications. What was important was that a critical mass of public opinion had coalesced and was growing on the "big idea" that slavery was wrong and should end. How that "big idea" was subsequently implemented took different political forms. Indeed, although that "big idea" may have gained legal form in the 13th and 14th Amendments, it is quite clear that the full promise of recognizing the humanity of African Americans lay over a century in the future. One can argue that the full legal recognition of African American humanity did not happen until the abolition of the remnants of *de jure* segregation in the 1960s.

But what did matter was the trajectory of the law: African Americans were human beings with rights. O'Brien, however, does not put the unborn on any similar trajectory. Indeed, his equivocations condemn the unborn to the continued legal non-personhood they have suffered since *Roe*. There is not even a "prophetic" stance here: instead, O'Brien serves up the same old same old.

While the mainstream pro-life movement in America remains committed to the ultimate goal of the Constitutional protection of the unborn, it has meanwhile focused for decades on incremental legislative strategies aimed at limiting the extraordinarily broad and lethal reach of *Roe*. Prohibitions of the particularly barbaric practice of partial birth abortion, state laws requiring parental consent or at least notification, state laws attempting to create spousal consent or at least notification, waiting periods, the Pain Capable Unborn Child Protection Act, and the Born Alive Infant Protection Acts have all been attempted. But while O'Brien is very loquacious in defending abortion choice intellectually, he suddenly becomes far more laconic about efforts to restrict abortion legislatively. He concedes that mandatory pre-abortion counseling, such as occurs in Germany, "does not seem to be an *undue* burden if one wishes to assign moral weight to the final decision."¹⁶

He also concedes that the Supreme Court has been prone, “with the appointment of more ‘conservative’ justices to be more permissive on restrictions that seem reasonable to protect the health of the woman and to assure that her decision is a considered one.”¹⁷ In the end, however, the justification of such incremental legislation for O’Brien seems to be not gradually restricting the scope of abortion, but ensuring that the decision is well considered. “In end-of-life decisions we legitimately seek extensive counsel: beginning-of-life decisions deserve as much.”¹⁸ There is no discussion here about why a partial birth abortion ban should be in place. Nor is there any about the Hyde Amendment, why it should be made permanent, or why a permanent exclusion of abortion coverage under Obamacare is warranted. In the absence of even lip service by O’Brien to this incremental agenda, one can legitimately ask whether O’Brien, like Marjorie Reiley Maguire, Daniel Maguire, and Frances Kissling, is not just trying to provide intellectual cover for the abortion establishment.¹⁹

But why do this in the name of a “Catholic” dissent? While various Catholic dissidents have been generally vocal in their rejection of Church teaching on birth control, for example, there has not hitherto been a comparable degree of public contestation of Catholic teaching on abortion. Why now? O’Brien provides a clue when he remarks that, among the distortions in the American Catholic Bishops’ public policy priorities caused by their “flamboyant rhetoric,”²⁰ “. . . Catholics have also blunted their capacity to foster significant social programs that are eminently capable of political determination.”²¹ How *could* Catholics let something like a person’s right to life get in the way of “health care reform”?

The fact is that, for significant portions of the Catholic Left, abortion has always been the issue that could and should have separated them from their secular counterparts as well as from large parts of their non-Catholic religious peers.²² That distinctiveness could have permitted them to provide prophetic witness in the world, perhaps even having provided some counterweight to the slide of the national Democrat Party, lock, stock, and barrel, into pro-abortion hands. However, the Catholic Left was not interested in being prophetic but in belonging. O’Brien suggests that one reason for anti-abortion activism among lay Catholics is the residue of “ghetto Catholicism”²³—the self-sufficient institutional completeness that immigrant Catholics had created in the 19th and first half of the 20th century to provide tribal identity. One might instead suggest that O’Brien and his fellow travelers feel most comfortable in the ghetto of the political Left, a place where they are not wholly at home as long as they tote pro-life baggage with them. Migration into that ghetto, after having minimized pro-life commitments, was pretty easy in the 1970s: the American bishops did nothing to William Brennan in 1973 when he, as the sole Catholic then on the Supreme Court, joined in *Roe*. In the critical years

immediately after that decision, the bishops took a hands-off policy as growing numbers of Catholic Democrats either began voting pro-abortion (e.g., Ted Kennedy, John Tunney, Patrick Leahy, Robert Drinan) or did nothing to further the pro-life cause (e.g., Pete Rodino). These bishops, largely appointed by Pope Paul VI in the years during and after the Second Vatican Council (1962-65), were collectively known as the “Jadot bishops” because many had been suggested for episcopal office by the then-papal representative to the United States Jean Jadot (to whom O’Brien dedicates this book). The group’s intellectual apogee occurred in 1983, when then-Chicago Archbishop Joseph Bernardin articulated his “consistent ethic of life,” which, regardless of his intent, allowed pro-abortion Catholic Democrats to attempt to claim to be “pro-life” because they voted for a variety of social programs, although they did not vote against abortion. The Jadot bishops were also generally against the death penalty (except for the unborn).

This laid-back stance dominated the period until 1984, which saw the end of the B.O.C. era (Before O’Connor). When John O’Connor became Archbishop of New York, the American Catholic hierarchy took on a more aggressively pro-life cast, particularly when O’Connor publicly took to task Democratic vice presidential candidate Geraldine Ferraro, a Catholic, for her pro-abortion voting record. The pro-life witness of the American bishops expanded in strength as bishops appointed by Pope John Paul II began to replace the Jadot bench. Nevertheless, during most of this time, the Left’s social agenda was largely politically unattainable. Three conservative Republican presidents and one Democrat, who largely retreated to the political center after the defeat of his own health plan and loss of Congressional control, meant the chances for an ambitious Left agenda were limited.

All that changed in 2006. The election of Democratic majorities in both houses of Congress, coupled with the likelihood of a Democratic takeover of the White House in 2008, meant that repressed dreams of social utopia now seemed attainable. The anti-abortion activism of the Catholic bishops, however, remained a potential obstacle to this vision. So, in the run-up to the 2008 campaign, there were already “Catholic” voices ready to counsel their co-religionists that voting for a President and Catholic Vice President who had pledged fealty to *Roe* posed no problems.²⁴

The debate over Obamacare joined the issue. Although the President and Congressional leadership claimed that Obama’s health care package did not include abortion funding, there was clear resistance to including a statutory ban on that funding. When it looked as if a small group of pro-life House Democrats might supply the critical margin to defeat the entire package over failure to include a ban on abortion funding, Michigan Catholic Democrat Bart Stupak showed just how to seize defeat from the jaws of victory. He provided the votes necessary to enact the package without the abortion prohibitions in place. Although the American

bishops opposed the package without those provisions, critical support on behalf of the bill came at the last minute from Sr. Carol Keehan of the Catholic Health Association.

O'Brien's book continues the old project of trying to make pro-life mean everything except . . . pro-life. Apart from O'Brien's equivocations about what constitutes "pro-life" (i.e., certainly not mere biological life), he drops hints here and there of how the Catholic Church's anti-abortion fixation retards social justice. The clearest example of how Catholics have "blunted" their social justice agenda is their diversion of legislative energies: "Nothing will really prevent abortions from taking place, but a simple piece of legislation will ban the death penalty."²⁵ Not content with trying to substitute Bernardin's "seamless garment" for a robust defense of life where it is most threatened, O'Brien also trots out the "safe, legal, and rare" mantra, insisting that the "prudential course for the USCCB (United States Conference of Catholic Bishops) would be to give support to the so-called 95-10 package of legislative initiatives proposed by Democrats for Life, rather than a futile campaign to re-criminalize abortion."²⁶ Perhaps there are elements in that package that are "prudential," perhaps others are not. But just as a "slave buy-out" or "research into the economic reasons for involuntary servitude" program would not have addressed the "big issue" of the wrongness of slavery, so 95-10 does not address the fundamental wrong of abortion. We might make abortion rare, but that still leaves us with the bottom line: Should the killing of a child before birth be legal? Just as Lincoln recognized that the Union could not survive "half slave and half free," so neither can any government indefinitely pretend to be agnostic about its most fundamental duty: protecting life, even (especially) "biological" life.

NOTES

1. A brief synopsis of the book can be found in the author's interview with the National Catholic Reporter, "Abortion Policy's Legal and Moral Realities," accessible at <http://www.ncronline.org/news/abortion-policys-legal-and-moral-realities> (accessed 27-MAR-2011, 1300 EDT).
2. O'Brien, *The Church and Abortion*, p. 112, hereinafter, "O'Brien."
3. O'Brien, p. 8.
4. See, e.g., Richard John Neuhaus, "The Pro-Life Movement as the Politics of the 1960s," *Wall Street Journal Online*, accessed at <http://online.wsj.com/article/SB123145161559565713.html> (accessed 27-MAR-2011, 1330 EDT).
5. O'Brien, p. 92.
6. I Corinthians 15: 26.
7. Mt 6:25; 16:25; Luke 9:24.
8. O'Brien, p. 113.
9. O'Brien, p. 112.
10. O'Brien, p. 134.
11. A dualism that separates the "person" from the human body is critical to those "Catholics" who rejected *Humanae vitae* in 1968 and later years. In that document, Pope Paul VI had rejected the morality of contraceptive intercourse on the grounds that it was wrong for persons deliberately to separate the procreative and unitive dimensions of sexual intercourse. Opponents of *Humanae*

vitae claimed that Pope Paul VI had enslaved human beings to their biology: the “person” (i.e., the conscious actor) should obviously be able to take the “physical” (i.e., the human body) in hand and redirect “physicalistic” outcomes to consciously chosen ends. In both his pre-papal and papal writings, Blessed John Paul II has repeatedly shown that this paradigm is itself faulty: the body is not someTHING subpersonal, to be controlled by the “person” (i.e., the will). The body is an inalienable dimension OF THE PERSON, not subordinate to the person. What one does to the body, one does to the person. (If the body is subpersonal, assault would hardly be a “crime against the person.” At most, it would be a property crime.) When one examines the human person from the viewpoint of an integral vision of the person, one discovers that the proper response to the personal dimensions of one’s bodily being (e.g., fertility) should be one of love, not use: fertility is a dimension of the person whom I am called to love, not a “property” of the body that can be used or discarded, based on my personal preferences. As John Paul’s prepapal writings suggest, the real “physicalists” were not those who defended *Humanae vitae* but rather its opponents: the problem lay not with the encyclical’s defenders, who saw the human body as *personally* physical, an essential dimension of the human person who is both spiritual and corporeal, but its opponents, who saw in the human body nothing but the physical. Just as an unshakeable faith in *Roe v. Wade* leads abortion proponents to defend even partial birth abortions, so the refusal of dualist “Catholics” to concede their philosophical errors vis-à-vis *Humanae vitae* compels them to deprecate “biological life” as a basic human good. The common philosophical attitude towards the personal good of life is why John Paul, even while conceding that abortion and contraception are different, could claim that they are “fruits of the same tree” (# 13). It is also why the Cambridge philosopher Elizabeth Anscombe observed, already in 1975, that the legalization of abortion inevitably followed in any society where widespread contraceptive intercourse takes root. See Anscombe, *Contraception and Chastity* (London: Catholic Truth Society, 1975). See also Karol Wojtyła/Pope John Paul II, *Love and Responsibility: An Ethical Study*, trans. H.T. Willetts (New York: Farrar, Strauss, Giroux, 1981) and his “Osoba ludzka a prawo naturalne” [The Human Person and Natural Law], *Roczniki Filozoficzne* 24 (1976)/2: 53-59. See also John Grondelski, “Nature and Natural Law in the Pre-Pontifical Thought of John Paul II,” *Angelicum*, 72 (1995): 519-39.

12. O’Brien, pp. 67-68, emphasis in original.
13. O’Brien, p. 67.
14. O’Brien, ch. 2, esp. pp. 23-38.
15. O’Brien, e.g., p. 77.
16. O’Brien, p. 151, emphasis in original.
17. O’Brien, p. 35.
18. O’Brien, p. 151.
19. Marjorie Reiley Maguire and Daniel C. Maguire, *Abortion: A Guide to Making Ethical Choices* (Washington: Catholics for a Free Choice, 1983); Daniel Maguire, *Sacred Choices: The Right to Contraception and Abortion in Ten World Religions* (Minneapolis, Fortress, 2003).
20. O’Brien, p. 39.
21. O’Brien, p. 148.
22. Their secular compatriots I discuss in the article. Suffice it to say that, from a religious viewpoint, despite ecumenical sensitivities, Catholic pro-life activism necessarily puts its advocates in common cause with Evangelicals, Mormons, and Orthodox Jews, not Reform Judaism or much of what Richard John Neuhaus has called “mainline/old-line” Protestantism.
23. O’Brien, p. 117.
24. Douglas Kmiec, *Can a Catholic Support Him? Asking the Big Question about Barack Obama*. Woodstock, NY: Overlook, 2008.
25. O’Brien, p. 148.
26. O’Brien, p. 34.

Peeling the Onion

Mary Rose Somarriba

The headline in a recent issue of *The Onion* blasts: “Planned Parenthood Opens \$8 Billion Abortionplex.”

“Cecile Richards told reporters that the new state-of-the-art fetus-killing facility located in the nation’s heartland offers quick, easy, in-and-out abortions to all women,” *The Onion* breathlessly reported, “and represents a bold reinvention of the group’s long-standing mission and values.”

What’s clever about this article is the way the writers tease activists on both sides of the abortion debate. By putting shocking words like “it’s going to be that much easier for us to maximize the number of tiny, beating hearts we stop every day,” in the mouth of Planned Parenthood’s president, it roasts pro-lifers who think pro-choicers are intentionally pro-death. But by adding that she’s excited to cater to those who “know getting an abortion is the easiest form of birth control,” it knocks Planned Parenthood for its inability to bring abortion numbers down—despite its insistence over the years that increased access to contraception would do just that.

What the article most effectively makes clear is this: No one really wants an “abortionplex” where “women visiting the facility can be quickly fitted into stirrups without pausing to second-guess their decision or consider alternatives such as adoption.”

No one—not even at Planned Parenthood. Right?

After reading *Unplanned*, the recent story of Abby Johnson, a former director of a Planned Parenthood clinic, the answer turns out to be both yes and no. The book highlights people working for Planned Parenthood who are dedicated to decreasing the number of abortions through increased access to contraception. The author was formerly one such person. But, as Ms. Johnson witnessed, there are also those in corporate Planned Parenthood who, fueled by fears in the financial downturn, saw that abortion brings in more money and have enacted quotas to increase the number of abortions in clinics like the one Johnson ran. In *Unplanned*, Johnson describes how this eventually contributed to her decision to resign from Planned Parenthood after years of service.

Unplanned should be essential reading for people on both sides of the abortion divide. It will be hard to find a more civil, compassionate account of the most controversial subject in America today. Johnson reminds us first and foremost to

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see the people on both sides of the debate *as human beings*. For her, fetuses are human; babies are human; women considering abortion are human; and abortion providers are human. And all humans deserve to be treated with love and respect.

Johnson recounts reaching this considered view after several years of a highly personal journey—one that includes two abortions of her own, eight years at Planned Parenthood, interacting with protesters, and an unexpected change of heart while assisting an ultrasound-guided abortion.

Abby Johnson is now anti-abortion, but she is not your typical pro-lifer. Not only because she's one of the few people who have actively supported both sides of the debate. But because, even with all her knowledge of Planned Parenthood's internal problems and all the potential ways she could expose them on those grounds (Planned Parenthood fearfully took her to court after her resignation), her weapon of choice against the abortion-industry giant is, of all things, prayer.

At a Cleveland Right to Life symposium this past March, Johnson was asked to name the most important thing one can do to stop abortion. She replied with steely conviction, "Praying outside an abortion clinic."

Praying outside? "I'll say it again," she said with her *Don't Mess with Texas* voice. "Being out there is the most important thing you will ever do in the pro-life movement."

She speaks with authority. In her book, Johnson calls prayer essential to her personal journey as a woman; and it's something that's important for countless women across America. A 2001 survey by Barna Research shows 88 percent of women say they pray in a typical week. Sincere prayer requires self-examination—and that's exactly what people on both sides of the abortion debate need, at a time when demonizing and externalizing are the default *modi operandi* for most.

And it was prayer that guided her decision to leave her life's work behind her.

When corporate headquarters revealed plans "to open a massive, seven-story, 78,000-square foot clinic in Houston, [with] an entire floor . . . devoted to medical and abortion services," Johnson felt they had turned their focus to profit and away from women's welfare and abortion prevention. Despite the fact that there were already late-term-abortion providers in the Houston area, the clinic would also provide the profitable procedure. She questioned how this could be consistent with the ideals of reducing the need for abortion, ideals her Planned Parenthood leaders originally emphasized to her.

The \$26-million facility was completed a year ago and is now the largest abortion clinic in the nation. It turns out the abortionplex is no joke, and Johnson was no longer in on it.

The War Against Girls

Jonathan V. Last

Unnatural Selection: Choosing Boys Over Girls and the Consequences of a World Full of Men

By Mara Hvistendahl

PublicAffairs, 314 pages, \$26.99

Mara Hvistendahl is worried about girls. Not in any political, moral or cultural sense but as an existential matter. She is right to be. In China, India and numerous other countries (both developing and developed), there are many more men than women, the result of systematic campaigns against baby girls. In “Unnatural Selection,” Ms. Hvistendahl reports on this gender imbalance: what it is, how it came to be and what it means for the future.

In nature, 105 boys are born for every 100 girls. This ratio is biologically iron-clad. Between 104 and 106 is the normal range, and that’s as far as the natural window goes. Any other number is the result of unnatural events.

Yet today in India there are 112 boys born for every 100 girls. In China, the number is 121—though plenty of Chinese towns are over the 150 mark. China’s and India’s populations are mammoth enough that their outlying sex ratios have skewed the global average to a biologically impossible 107. But the imbalance is not only in Asia. Azerbaijan stands at 115, Georgia at 118 and Armenia at 120.

What is causing the skewed ratio: abortion. If the male number in the sex ratio is above 106, it means that couples are having abortions when they find out the mother is carrying a girl. By Ms. Hvistendahl’s counting, there have been so many sex-selective abortions in the past three decades that 163 million girls, who by biological averages should have been born, are missing from the world. Moral horror aside, this is likely to be of very large consequence.

In the mid-1970s, amniocentesis, which reveals the sex of a baby in utero, became available in developing countries. Originally meant to test for fetal abnormalities, by the 1980s it was known as the “sex test” in India and other places where parents put a premium on sons. When amnio was replaced by the cheaper and less invasive ultrasound, it meant that most couples who wanted a baby boy could know ahead of time if they were going to have one and, if they were not, do something about it. “Better 500 rupees now than 5,000 later,” reads one ad put out by an Indian clinic, a reference to the price of a sex test versus the cost of a dowry.

But oddly enough, Ms. Hvistendahl notes, it is usually a country’s rich, not its poor, who lead the way in choosing against girls. “Sex selection typically starts

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with the urban, well-educated stratum of society,” she writes. “Elites are the first to gain access to a new technology, whether MRI scanners, smart phones—or ultrasound machines.” The behavior of elites then filters down until it becomes part of the broader culture. Even more unexpectedly, the decision to abort baby girls is usually made by women—either by the mother or, sometimes, the mother-in-law.

If you peer hard enough at the data, you can actually see parents demanding boys. Take South Korea. In 1989, the sex ratio for first births there was 104 boys for every 100 girls—perfectly normal. But couples who had a girl became increasingly desperate to acquire a boy. For second births, the male number climbed to 113; for third, to 185. Among fourth-born children, it was a mind-boggling 209. Even more alarming is that people maintain their cultural assumptions even in the diaspora; research shows a similar birth-preference pattern among couples of Chinese, Indian and Korean descent right here in America.

Ms. Hvistendahl argues that such imbalances are portents of Very Bad Things to come. “Historically, societies in which men substantially outnumber women are not nice places to live,” she writes. “Often they are unstable. Sometimes they are violent.” As examples she notes that high sex ratios were at play as far back as the fourth century B.C. in Athens—a particularly bloody time in Greek history—and during China’s Taiping Rebellion in the mid-19th century. (Both eras featured widespread female infanticide.) She also notes that the dearth of women along the frontier in the American West probably had a lot to do with its being wild. In 1870, for instance, the sex ratio west of the Mississippi was 125 to 100. In California it was 166 to 100. In Nevada it was 320. In western Kansas, it was 768.

There is indeed compelling evidence of a link between sex ratios and violence. High sex ratios mean that a society is going to have “surplus men”—that is, men with no hope of marrying because there are not enough women. Such men accumulate in the lower classes, where risks of violence are already elevated. And unmarried men with limited incomes tend to make trouble. In Chinese provinces where the sex ratio has spiked, a crime wave has followed. Today in India, the best predictor of violence and crime for any given area is not income but sex ratio.

A high level of male births has other, far-reaching, effects. It becomes harder to secure a bride, and men can find themselves buying or bidding for them. This, Ms. Hvistendahl notes, contributes to China’s astronomical household savings rate; parents know they must save up in order to secure brides for their sons. (An ironic reflection of the Indian ad campaigns suggesting parents save money by aborting girls.) This savings rate, in turn, drives the Chinese demand for U.S. Treasury bills.

And to beat the “marriage squeeze” caused by skewed sex ratios, men in wealthier imbalanced countries poach women from poorer ones. Ms. Hvistendahl reports from Vietnam, where the mail-order-bride business is booming thanks to the demand for women in China. Prostitution booms, too—

and not the sex-positive kind that Western feminists are so fond of.

For years couples have turned to sperm donors, egg donors or surrogate mothers to help them become parents. Now the process is being taken to a level that is stretching legal and ethical boundaries. WSJ's Linda Blake reports from India.

The economist Gary Becker has noted that when women become scarce, their value increases, and he sees this as a positive development. But as Ms. Hvistendahl demonstrates, "this assessment is true only in the crudest sense." A 17-year-old girl in a developing country is in no position to capture her own value. Instead, a young woman may well become chattel, providing income either for their families or for pimps. As Columbia economics professor Lena Edlund observes: "The greatest danger associated with prenatal sex determination is the propagation of a female underclass," that a small but still significant group of the world's women will end up being stolen or sold from their homes and forced into prostitution or marriage.

All of this may sound dry, but Ms. Hvistendahl is a first-rate reporter and has filled "Unnatural Selection" with gripping details. She has interviewed demographers and doctors from Paris to Mumbai. She spends a devastating chapter talking with Paul Ehrlich, the man who mainstreamed overpopulation hysteria in 1968 with "The Population Bomb"—and who still seems to think that getting rid of girls is a capital idea (in part because it will keep families from having more and more children until they get a boy). In another chapter she speaks with Geert Jan Olsder, an obscure Dutch mathematician who, by an accident of history, contributed to the formation of China's "One Child" policy when he met a Chinese scientist in 1975. Later she visits the Nanjing headquarters of the "Patriot Club," an organization of Chinese surplus men who plot war games and play at mock combat.

Ms. Hvistendahl also dredges up plenty of unpleasant documents from Western actors like the Ford Foundation, the United Nations and Planned Parenthood, showing how they pushed sex-selective abortion as a means of controlling population growth. In 1976, for instance, the medical director of the International Planned Parenthood Federation, Malcom Potts, wrote that, when it came to developing nations, abortion was even better than birth control: "Early abortion is safe, effective, cheap and potentially the easiest method to administer."

The following year another Planned Parenthood official celebrated China's coercive methods of family planning, noting that "persuasion and motivation [are] very effective in a society in which social sanctions can be applied against those who fail to cooperate in the construction of the socialist state." As early as 1969, the Population Council's Sheldon Segal was publicly proclaiming the benefits of sex-selective abortion as a means of combating the "population bomb" in the East. Overall Ms. Hvistendahl paints a detailed picture of Western Malthusians

pushing a set of terrible policy prescriptions in an effort to road-test solutions to a problem that never actually manifested itself.

There is so much to recommend in “Unnatural Selection” that it’s sad to report that Ms. Hvistendahl often displays an unbecoming political provincialism. She begins the book with an approving quote about gender equality from Mao Zedong and carries right along from there. Her desire to fault the West is so ingrained that she criticizes the British Empire’s efforts to stamp out the practice of killing newborn girls in India because “they did so paternalistically, as tyrannical fathers.” She says that the reason surplus men in the American West didn’t take Native American women as brides was that “their particular Anglo-Saxon breed of racism precluded intermixing.” (Through most of human history distinct racial and ethnic groups have only reluctantly intermarried; that she attributes this reluctance to a specific breed of “racism” says less about the American past than about her own biases.) When she writes that a certain idea dates “all the way back to the West’s predominant creation myth,” she means the Bible.

Ms. Hvistendahl is particularly worried that the “right wing” or the “Christian right”—as she labels those whose politics differ from her own—will use sex-selective abortion as part of a wider war on abortion itself. She believes that something must be done about the purposeful aborting of female babies or it could lead to “feminists’ worst nightmare: a ban on all abortions.”

It is telling that Ms. Hvistendahl identifies a ban on abortion—and not the killing of tens of millions of unborn girls—as the “worst nightmare” of feminism. Even though 163 million girls have been denied life solely because of their gender, she can’t help seeing the problem through the lens of an American political issue. Yet, while she is not willing to say that something has gone terribly wrong with the pro-abortion movement, she does recognize that two ideas are coming into conflict: “After decades of fighting for a woman’s right to choose the outcome of her own pregnancy, it is difficult to turn around and point out that women are abusing that right.”

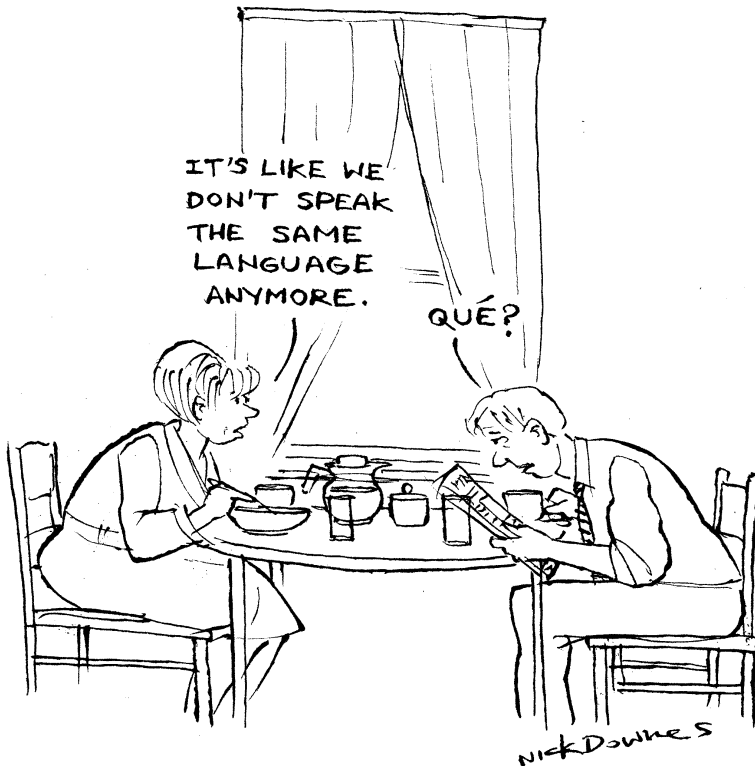
Late in “Unnatural Selection,” Ms. Hvistendahl makes some suggestions as to how such “abuse” might be curbed without infringing on a woman’s right to have an abortion. In attempting to serve these two diametrically opposed ideas, she proposes banning the common practice of revealing the sex of a baby to parents during ultrasound testing. And not just ban it, but have rigorous government enforcement, which would include nationwide sting operations designed to send doctors and ultrasound techs and nurses who reveal the sex of babies to jail. Beyond the police surveillance of obstetrics facilities, doctors would be required to “investigate women carrying female fetuses more thoroughly” when they request abortions, in order to ensure that their motives are not illegal.

Such a regime borders on the absurd. It is neither feasible nor tolerable—nor

efficacious: Sex determination has been against the law in both China and India for years, to no effect. I suspect that Ms. Hvistendahl's counter-argument would be that China and India do not enforce their laws rigorously enough.

Despite the author's intentions, "Unnatural Selection" might be one of the most consequential books ever written in the campaign against abortion. It is aimed, like a heat-seeking missile, against the entire intellectual framework of "choice." For if "choice" is the moral imperative guiding abortion, then there is no way to take a stand against "gendercide." Aborting a baby because she is a girl is no different from aborting a baby because she has Down syndrome or because the mother's "mental health" requires it. Choice is choice. One Indian abortionist tells Ms. Hvistendahl: "I have patients who come and say 'I want to abort because if this baby is born it will be a Gemini, but I want a Libra.'"

This is where choice leads. This is where choice has already led. Ms. Hvistendahl may wish the matter otherwise, but there are only two alternatives: Restrict abortion or accept the slaughter of millions of baby girls and the calamities that are likely to come with it.



On “Unabashed Mendacity”

David Yves Braun

In her April 7 *New Republic* book review of three recent quasi-feminist “histories” of abortion and contraception, Christine Stansell argues that contemporary Tea Party activists are heirs of the “single issue” politics that took shape around abortion after *Roe* federalized that issue in 1973. She accuses the contemporary Republican Party of being run by those who cut their political teeth after learning how to “hamstring business as usual” in the fight over abortion. “The unabashed mendacity, the extreme and implausible goals . . . and the ginning up of protest by elites with deep pockets are political plans: these were all road-tested in the long march against *Roe*.”¹

People living in glass houses should beware of facilely throwing around charges of “mendacity.” The fact is that the whole artifice of *Roe* rests upon two big instances of mendacity: (1) Harry Blackmun’s feigned intellectual inability to determine when life begins² (even though his ignorance posed no barrier to his practical conclusion to strip away any legal protection of unborn human life) and (2) Blackmun’s evasive vagueness about where the right to abortion can be found in the Constitution³ (an amazingly ambiguous textual foundation for a “right” that the Court has nevertheless found over four decades to require ever more minutely precise applications). Given those origins, one would hope that proponents of *Roe* would be charier about throwing around charges of lying.

Of course, advocates of abortion have long dissimulated what *Roe* wrought. Rarely do they admit that *Roe* and especially its companion case, *Doe v. Bolton*,⁴ resulted in an absolute and unlimited right to abortion throughout all nine months of pregnancy. For the longest time, *Roe*’s votaries clung to the subterfuge of Blackmun’s trimester system to pretend that the decision only recognized an unqualified right to abortion in the first trimester, allowing for progressive restrictions thereafter. Indeed, Stansell herself writes that polls consistently show support for *Roe*, noting “[t]he statistics waiver, depending on how the polling questions are phrased and what permutation of legal abortion is at stake.” What neither Stansell nor the polls admit, however, is that the whole truth about the scope of *Roe* is almost never told. Indeed, until the debate about partial birth abortion came along, most abortion advocates (and many surveys) continued to pretend publicly that *Roe* was largely limited to the first trimester. Even when partial birth abortion became a public issue, abortion advocates rarely if ever admitted that this grisly practice was the logical extension of the court’s decision (although legal briefs

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attacking legislative restrictions on the practice did make that argument). Instead, partial birth abortion apologists sought to turn the tables by trotting out the “hard cases” argument, pretending that the procedure was medically necessary and that their defense of it was driven by the need to save the lives of women endangered by a pregnancy involving an already viable fetus.⁵

Stansell’s interpretation of the history of abortion proves her a worthy heir of Harry Blackmun, whose own Roe-recorded excursus into “history” is also highly disputable. Blackmun, after all, claimed that states only began to outlaw abortion because of their concern for maternal health. He also suggested that the Hippocratic prohibition on abortion represented just one strand of ancient views on the subject. In one sense, that was true: abandoning newborns was, after all, a legitimate practice under the Roman *patria potestas*. Blackmun suggests that Hippocratic opposition to abortion prevailed only because of the triumph of Christianity. Stansell likewise blames religion (and specifically, the Catholic Church) for the continuing vigor of the right-to-life movement: “[t]he opposition was drummed up, exacerbated, and orchestrated by elites at the highest levels of the Catholic Church. . . .”

But her disinformation doesn’t stop there. “Abortion reform moved with majority opinion, not against it,” claims Stansell. According to her, Americans were simply waiting for *Roe* logically to extend the right to “privacy” born in the 1965 Supreme Court decision *Griswold v. Connecticut* (which recognized married couples’ Constitutional privacy right to purchase contraceptives); her version of history is that once again, the Catholic Church almost singlehandedly postponed the extension of the privacy right to include abortion. History, however, is seldom so clear and linear, and in this case Stansell ignores inconvenient facts that at the very least cast doubt on her interpretation. For example, if “abortion reform” did indeed reflect majority opinion, why did majorities of voters in North Dakota and Michigan, states in which Catholics constituted a minority, both reject referenda to liberalize abortion in November 1972, only a few months before *Roe* was decided? Stansell notes that “[i]n 1970, the [New York] state legislature passed the most liberal bill in the country,” but omits the salient fact that the bill passed only because of a last-minute change of vote by a single assemblyman (whose political career ended after that session), giving the bill 76 votes in the 150-man chamber.

Nor must one necessarily buy her interpretation that the 1972 effort to repeal that law was a manifestation of Catholic power politics: one might also suggest that New Yorkers were not content with the Empire State being the feticide capital of America, and the repeal of legalized abortion garnered a majority in both houses of the Legislature, failing only because of Governor Nelson Rockefeller’s veto. And for all her railing about “elite” orchestration of public opinion, she sees no

“elitism” in Rockefeller’s veto, which frustrated the democratic will of the majority of the Legislature. Nor does she see any elitism in the Rockefeller family’s decades-long support for the kinds of eugenic population control programs aimed at controlling those groups which another member of our ruling elite recently described as those “populations that we don’t want too many of.”⁶

Truth to tell, except for some outliers like Alaska, Hawaii, Washington, and (but for Rockefeller’s veto), New York, by the time *Roe* came down, efforts to legalize abortion in state legislatures had largely run out of gas. Prior to *Roe*, the vast majority of states banned abortion. A minority of about a dozen states (including Georgia, whose law against abortion was struck down by *Doe v. Bolton*, the 1973 companion case to *Roe*) followed the American Law Institute’s more liberalized model statute. Many of the states that had legalized abortion in cases of rape were in the Deep South where, in other cases, liberals would typically find a racial motivation behind such laws.

It was largely the liberal elites that pressed for legalized abortion⁷ and, when they could get no further through democratic reform in state legislatures or covert legerdemain through administrative regulations, cloaked their agenda in “rights talk”⁸ to short-circuit the democratic process and cut off debate.⁹ As a result of *Roe*, a certain ideological viewpoint that arrogates to itself the title “mainstream” (while fleeing open, public debate of its “mainstream” convictions) has established, at least in Supreme Court-interpreted Constitutional law, that: a father has no interest in the abortion of his own child; parents have no power to prevent and frequently no right even to be informed of their minor daughter’s obtaining an abortion; taxpayers have a duty to fund abortion, either indirectly (using the same kind of budgetary sleight-of-hand that has bequeathed Americans a 14 trillion dollar debt) or (in states like New Jersey) directly. Before *Roe*, to have suggested that the Constitution mandated such things would have been risible; that they are currently regarded as constitutionally mandated does not prove public support for the *Roe* regime but instead demonstrates the legal and cultural metastasis of the “culture of death” and the concomitant “death of outrage.”¹⁰

But, of course, supporters of abortion cannot allow facts such as these to interfere with the sacred right to abortion. Notwithstanding their protestations that they want to make abortion “safe, legal, and rare,” abortion advocates have never encountered a category of prenatal butchery that they didn’t like. *Roe* has always at least implicitly demanded the right to a dead baby. Otherwise, why do pro-abortionists oppose “Born Alive Protection” statutes, intended to ensure that a separate physician is available to attend to a child that might emerge alive from an abortion? Why do supporters of abortion, who often in other areas have the standard liberal scrupulosity about possible “conflicts of interest” (particularly when the private sector is involved), suddenly see no such conflict when an abortionist

who moments ago was trying to end a life is suddenly confronted with a born-alive child needing medical care?

For Stansell to suggest that the right to life is driven by some “elite” is ludicrous. The housewives and school kids that trundle into Washington-bound buses every January 22 with their handmade signs calling for an end to *Roe* are hardly polished K Street lobbyists with Power Point presentations. The citizens that crowd senators’ offices on that day calling for an end to “killing the babies” are more “Mr. Smith goes to Washington” than paid pundits practiced in “talking points” and “scene setters.” The kind of money that has kept enterprises like the National Right to Life Committee or even the Human Life Foundation going is (unfortunately) a fraction of the funds Planned Parenthood has at its disposal every day (often out of the taxpayer’s pocket).

Stansell would have readers believe that a Republican elite drives anti-abortion politics. The truth is that a certain elite in the Democratic Party has made fealty to *Roe* its loyalty oath and, in the process, hollowed out the center-right of that Party. Despite the Party’s attempts to find a common language with those disaffected Democrats who left in the Carter-Reagan era and never came back, those voters recognize that such efforts issue from a mindset that welcomes only their votes. Stansell suggests some kind of conspiracy when she writes that “[i]n 1979, the newly formed Moral Majority brought in Protestant Evangelicals to give Catholics the partners they needed to present their anti-*Roe* crusade as an expression of *vox populi*.” However, the coalescence of the Moral Majority in the late 1970s was less a sinister plot by that generation’s Karl Roves than a reaction by Evangelicals—hitherto largely politically dormant—to a sense of betrayal by a Bible-quoting President elected in part by their votes, whose practical policies were remarkably in sync with the secular Left.¹¹ While some fell in 1976 for the siren song of the peanut farmer from Plains, by 1978 it was clear even to most Evangelicals that “the voice is Jacob’s voice, but the hands are the hands of Esau.”

In the Stone and Edwards’ play “1776,” Benjamin Franklin, trying to assuage John Adams’ concerns about the kind of political deal-making that helped achieve the votes for American independence, tells his Massachusetts colleague, “Don’t worry, John. The history books will clean it up.” Undoubtedly, pro-abortion revisionists would love to “clean up” the history of abortion rights from the 1960s on. The countervailing need for anti-abortionists to tell our story our way should also be clear, lest that narrative be hijacked to preserve abortion rights. Writing the history of the real civil rights movement of our day—the movement to protect human beings’ most basic right at their most vulnerable stage—should not be abandoned to the enemies of that right. That would truly be a case of “unabashed mendacity.”

NOTES

1. Christine Stansell, "Holy War: Understanding the Republican Party's New War on Abortion and Family Planning," *New Republic*, April 7, 2011, accessed at <http://www.tnr.com/article/books/magazine/86353/abortion-roe-wade-pence-republicans-catholics> (subscription required, May 9, 2011, 21:21).
2. *Roe et al. v. Wade*, 410 US 113 at 159.
3. *Roe et al. v. Wade*, 410 US 113 at 152-53.
4. *Doe v. Bolton*, 410 US 179, especially at 192.
5. See, e.g., William Saletan, "When Kagan Played Doctor," *Slate* (<http://www.slate.com/id/2259495/>, accessed May 8, 2011, 20:37); Shannen Coffin, "Kagan's Abortion Distortion," *National Review*, (<http://www.nationalreview.com/articles/243362/kagans-abortion-distortion-shannen-w-coffin>, accessed May 8, 2011, 20:40).
6. Emily Bazelon, "The Place of Women on the Court," (interview with Justice Ruth Bader Ginsburg, originally appearing in the July 7, 2009 *New York Times Magazine*, at <http://www.nytimes.com/2009/07/12/magazine/12ginsburg-t.html>, accessed May 8, 2011, 22:17).
7. See, e.g., Mary Meehan, "The Road to Abortion," in Anne Conlon, ed., *The Debate since Roe: Making the Case Against Abortion, 1975-2010* (New York: Human Life Foundation, 2010), pp. 11-38. For those concerned about "mendacity," see, e.g., pp. 29-32.
8. Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse* (New York: Free Press, 1991).
9. One cannot fail to observe a similar process today with regard to efforts to impose homosexual "marriage."
10. The "culture of death" is a concept articulated by Pope John Paul II (see, e.g., his 1995 encyclical letter *Evangelium vitae*, # 12). "Death of outrage" is a concept articulated by William Bennett in his book of the same name (New York: Free Press, 1998).
11. See, e.g., Kenneth Heineman, *God Is a Conservative: Religion, Politics, and Morality in Contemporary America* (New York: New York University Press, 1998), pp. 110-11. (I think the choice of title for the book is unfortunate, since religion is not partisan.)



"Have you been using my halberd to shave your legs again?"

Juan Williams's Public-Service Announcement

Kathryn Jean Lopez

Abortion is miserable. It's miserable in itself and, if you're one of the survivors—she who “chose,” as they say, he who supported (or coerced) her choice, those who are family of the child who never had the chance to walk, or crawl, among us—the misery doesn't end with a procured procedure as neat and tidy as our culture has been known to portray it. In the political arena, this reality is rarely done justice. The typical political conversation we have about it is also, of course, miserable.

“It's like picking at a scab,” a political candidate told me recently. Whatever their position on abortion is, people don't want to talk about it, they don't want to hear about it. For many, it brings up pain and guilt and hardened hearts.

During a recent Iowa debate another political candidate, former Pennsylvania senator Rick Santorum, managed to use his platform well. Showing real compassion about the issue, the longtime pro-life leader spoke of the “trauma” and “violence” of abortion. It was a rare constructive moment in abortion politics.

All too often, when it comes to abortion and politics, the media segments are too short, the questions are too loaded, the speakers are too careless.

Or, as Juan Williams writes in his new book, *Muzzled: The Assault on Honest Debate*: “Political leaders, both for and against abortion, stick to politically correct scripts for fear of losing ground to another politician who is willing to take an absolutist stance.”

Williams goes on: “Every presidential candidate is compelled to support abortion rights if they are Democratic, or stand against abortion rights if they are Republican.” And, he adds, “[e]ven politicians who speak out of sincere belief on abortion knowingly overstate their ability to end abortion or protect women who want an abortion.”

When it comes to the politics of abortion, Williams argues that “[f]orty years later it remains the champion wedge issue to divide the American people and the major political parties.” Abortion, he contends, “is the epitome of fixed, intractable, polarized American politics.” And—here is that appropriate word again—“[b]oth sides try to drag everyone into their miserable argument.”

In *Muzzled*, Williams, a former National Public Radio correspondent now full-time with the Fox News Channel, devotes an entire chapter to the abortion debate—

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sharing his thoughts on how and why each side contributes to an unproductive political debate. Although he claims “this book is not about who is right or wrong on abortion,” a pro-life activist might easily recoil at parts, even legitimately believing Williams to be downright wrong at others. But defensiveness or pride ought not to get in the way of digesting and responding to his criticisms—and not simply in order to shoot them down.

Part of the problem, Williams believes, is that the debate about abortion frequently masquerades as a debate about something else. It’s hard to argue with him on this when, for example, a leading pro-abortion-rights group known as the National Association for the Repeal of Abortion Laws at its 1969 founding has since rebranded itself NARAL Pro-Choice America—now issuing rallying cries that protest a “war on women” and “defunding Planned Parenthood”: Where in either of those slogans does the reality of ending the life of a human being get communicated? Where in either of them do we get an idea of what’s truly at stake?

Williams also makes a provocative point about the Hyde Amendment, which has banned taxpayer money from being used to fund abortions through programs financed by the Departments of Labor and Health and Human Services since Congress first passed it in 1976. “The Hyde Amendment,” he writes, “effectively denies a legal medical procedure to poor women. This is a significant issue of fairness and social justice worth discussing. But that discussion is not allowed. Neither side wants to risk upsetting the status quo, which is benefitting them both. The politics of abortion have made it a zero-sum game with extremists on both sides setting the rules and everyone else remaining muzzled.” The man has a point: For those who truly believe abortion is just another women’s health-care issue—some of the most devoted advocates of legal abortion in America—there is a real disconnect between the legality of abortion and this funding prohibition. If abortion is just another choice worthy of our legal support, they argue, why wouldn’t we help a woman who needs one and can’t afford it?

Unholy Words

But what really bugs Williams about the debate is religion: “When it comes to contemporary arguments about abortion, the use of religious doctrine threatens to erase the line between religion and government. . . . It clogs the arteries that have carried the blood of American democracy.”

During the course of an extended rant about the separation of Church and State, Williams writes this: “It may sound radical—because it is rarely said for fear of giving offense—but religion is not the law in this country. Judeo-Christian teachings certainly inform our nation’s values, but they are not the only guides for settling the debate. Those who base social-policy debates on religious doctrine are trying to impose constraints on the dialogue that are not accepted by all Americans.”

Williams goes on to say that “using religion to foment division between Americans is possibly the vilest form of coded speech, because it is so contradictory to the reasons this country was founded. The word ‘God’ does not appear in the Constitution. The only reference to a deity is an expression of the date—‘The Year of Our Lord’—which is about as bland a reference as one can imagine. The document has been described as the ‘godless Constitution.’”

“So how,” Williams continues, “in a country governed by that Constitution, can the Bible or any other religious text be the last word on what rights a woman has regarding abortion?”

Cynically—albeit perhaps accurately in some cases—Williams observes the following: “The sad thing is that advocates and opponents, as well as politicians, know this but still find it politically advantageous to pretend they don’t. And it is ironic that many of those who favor the strictest interpretation of the Constitution are the most liberal when it comes to violating its very first principle.”

Of course, to believe that the unborn child is a child of God who is worthy of protection is not the same thing as establishing a religion. “We are endowed by Our Creator with certain inalienable rights,” one of which is “life.” And I didn’t have to go to a Bible or a preacher of coded language to find that.

Reading *Muzzled*, I was reminded of a decades-old New York *Times* Op-Ed piece penned by the late novelist Walker Percy. In “A View of Abortion, With Something to Offend Everybody” (June 8, 1981), Percy explained why we persist in arguing about something that is really indisputable: “The current con, perpetrated by some jurists, some editorial writers, and some doctors is that since there is no agreement about the beginning of human life, it is therefore a private religious or philosophical decision and therefore the state and the courts can do nothing about it. This is a con. I will not presume to speculate who is conning whom and for what purpose. But I do submit that religion, philosophy, and private opinion have nothing to do with this issue. I further submit that it is a commonplace of modern biology, known to every high school student and no doubt to you the reader as well, that the life of every individual organism, human or not, begins when the chromosomes of the sperm fuse with the chromosomes of the ovum to form a new DNA complex that thenceforth directs the ontogenesis of the organism.”

I would further submit that even as sonogram technology outs the con as the lie it is, pro-choice efforts to confuse and distract are being ramped up. Rape and legitimate life-of-the-mother circumstances are posited as if these accounted for the vast majority of abortions—if there is anything less appealing than discussing abortion, it’s discussing rape and abortion. It’s remarkable, then, that when Rick Santorum was talking so beautifully about abortion trauma and violence, it was in response to a question in which he was asked whether his no-exceptions position on abortion made him “too much even for many conservatives to support.”

“Such vexed subjects as the soul, God, and the nature of man,” Percy continued in the *Times*, “are not at issue. What we are talking about and what nobody I know would deny is the clear continuum that exists in the life of every individual from the moment of fertilization of a single cell.”

Juan Williams in his book has something in common with Walker Percy’s *Op-Ed*—there is “Something to Offend Everybody” in both.

But Percy, while also challenging opponents of abortion, was, unlike Williams, taking a clear position on who is right and who is wrong in the debate, because truly *there is no debate*—only evil, in all its ugly and banal manifestations, gripping hold on our fallen selves and disordered culture.

Williams’s accusations, however, his honest observations about the angry and entrenched state of abortion politics in America, are worth taking to heart. Because this is the way too many people—especially some who do have open wounds—still receive the pro-life argument, particularly when it is a churchgoer or cleric making the case. A believer needn’t ever—and shouldn’t—put God aside, but it’s right to be prudent in our language and presentation. Reading Juan Williams’s lecture here is a good reminder to those of us who are religious, and who work to protect the most innocent among us in various ways, including in the political realm, that in fighting the human-rights battle of our lifetime we can’t afford to turn anyone off unnecessarily. It’s a life-and-death issue, after all.

And if those of us who are opposed to abortion take nothing from Williams’s chapter but this spot-on point, it is a crucial reminder, one that all too often gets lost in the confusion and frenzy and business of politics: “It is difficult to discuss any social issue that has strong ties to the volcanic topics of sexual behavior and religious beliefs.” This is why what Santorum pulled off, and what my candidate friend who talked about the “scab” bears in mind, is so important.

Williams adds: “Nothing matches abortion’s powerful, highly combustible political mixture of sex, death, women’s liberation, and religion.” All issues, in other words, that hit at the most intimate of human experiences. All issues that we frequently hesitate to speak frankly about. All issues that can bring both great peace and the deepest of pain and confusion. All issues that can never be adequately addressed in the political arena, and yet, frequently, for one reason or another, in one way or another, must be. All issues that call on family and church (and the other mediating institutions for which Alexis de Tocqueville so admired the United States) for reinforcements and fundamentals.

Now Not illegal Yet

In a similar vein, Williams writes: “Abortion is a painful subject, but no meaningful debate can take place while opponents pretend it can simply be abolished.” What about when *Roe v. Wade* is overturned?, he asks. “The overwhelming ma-

jority of abortions,” he insists, “would continue unabated.” Here the man also has a point. But the fact that abortion would remain legal in some states, or that some women would continue to seek illegal abortions, is not a reason to stop fighting. It’s a reason to be more determined to make sure that when an unhappily pregnant woman sees a problem, she sees a better solution.

An unplanned child, of course, is not a problem. She’s a gift and an opportunity and, most importantly, a human life. But to a woman who is unexpectedly pregnant, the child may indeed be seen only as a problem to be solved. Perhaps others are urging her to see it that way. Heaven knows our media culture reverberates with dehumanizing talking points to help make that case. During a recent MTV *16 and Pregnant* program about abortion, the extent to which this is a total delusion was on full display, despite the obvious “pro-choice” slant of the show, as a gal repeated such talking points even after admitting she had already bonded with her child, knowing she was already a mother.

A priority of every American who is committed to ending abortion in America, and truly building a culture of life, has to be making a commitment to real solutions: for example, supporting crisis-pregnancy centers; volunteering with the Sisters of Life; befriending a single mother. In other words, making our pro-life conviction a real, integrated, sacrificial part of our daily life.

Frequently, criticisms of the pro-life movement amount to largely a “Lazy Slander,” as a piece published by the Witherspoon Institute at Princeton University and recently reprinted here (Winter/Spring 2011) ably demonstrated, but that doesn’t mean we can’t work harder. When we’re arguing for spending cuts, we had better make sure we’re also doing our part to be a safety net. And to advertise the good work of others. Crisis-pregnancy centers tend not to make news unless they are under legislative attack. The frontline work they do—giving mothers and fathers and children and families the support they need to make the choice for life possible—usually does not receive media attention.

Juan Williams’s chapter on abortion in *Muzzled* is an invitation to Americans to “be not afraid” on this issue. To speak about abortion clearly and confidently and with love. To communicate a sincere concern for real people in difficult situations. To talk about options. To talk about the heroes who make sure that women don’t feel like they need abortions, who give men the support—even material—to ensure that they can rise to the occasion of fatherhood. People know where to go for an abortion. Do they know where to go for help in *not* having an abortion? A smart, innovative new law in Louisiana mandates that abortion clinics post a visible sign pointing to options. *There’s* something that’s both pro-life and pro-choice! Truly pro-choice. The Bioethics Defense Fund there deserves a lot of credit for moving us forward, as do many others around the country for what they do every day to make women know there are other choices than aborting their child.

Williams writes that “The fact that both political parties see benefit in keeping up the attacks has made it impossible to have honest debate or compromise and achieve national consensus on abortion. People become angry, hurt, and bitter from being assaulted with charges that range from being oppressors of women to being child killers. The response to such slander is predictable. People on both sides harden their positions and join in trading dogma.”

Of course we cannot compromise when it comes to life. But Williams here sounds a little dug in himself, not acknowledging the progress the pro-life movement has made in both passing laws and swaying public opinion in the abortion debate. And understandably: These are not what gets the airtime.

But what *more* can we do to get the message across about the choice for life, both personally and legally? Well, there could be a softening, starting with the rhetoric we use around our kitchen tables. Think about it. With one and three American women having an abortion during her lifetime, the person to whom you’re passing the gravy may very well be hurting inside.



“They were after me Lucky Charms.”

FROM THE ARCHIVES:

Love of Life (1981)

Chilton Williamson, Jr.

By a macabre coincidence the flowering of a pro-abortion ideology has occurred in an era which to a greater degree than any other in the history of Western Society is characterized by indiscriminating solicitousness for "Life." Although critics of modern capitalism have for generations been accusing it of making a bourgeois fetish of romantic Love through the engine of Hollywood, they are continually conspiring to do the same for Life. The phrases "reverence for Life" and "sanctity of Life" are endlessly iterated by people for whom reverence is a foreign and even sinister sensation and who do not believe in the idea of sanctity in the formal sense at all. "Reverence for Life" has in fact become so much a cant phrase in politics and journalism that we shall soon be obliged to dismiss it as the last refuge of a scoundrel.

One of the few exchanges in the abortion debate to generate real humor occurs when a pro-abortionist accuses an anti-abortionist of holding a position that is based on superstition, irrationality, and sentimentality. The anti-abortionist, his opponent insists, is mired in simplistic, emotional thinking: He is incapable of logical thought and he is incapable of making distinctions. His stock-in-trade is prejudice; his prejudices come in unsplittable and indigestible combinations. He is the unhappy remnant of the pre-modern mind, roaming lost like a white whale through primeval seas and capable of horribly upsetting the barques of enlightened people.

It is somewhat like listening to a witchdoctor telling a Sloan-Kettering surgeon that his practices are based on voodoo. Let us assume (as proponents of abortion usually do) that the typical anti-abortionist is "R.C.," or perhaps a reasonably educated member of one of the more theologically rigorous Protestant sects, and that his likely challenger in debate is religiously "enlightened." On the one hand stands a person whose arguments, while they are extrarational to the degree that they are founded upon divinely revealed commandments, have been shaped over a couple of millennia by some of the best, most systematic, and most rigorous philosophers, logicians, and humanists of the Western intellectual tradition (and which not even the most inflexible secular humanist would think of deposing from the curriculum). On the other stands a person who believes that all systems of ontological and moral beliefs are suspect, if not vain, and who by his own admission counts upon intuition, ad-libbing, emoting, and nose-counting to arrive at his moral and practical conclusions.

Whatever the root-and-branch validity of the anti-abortionist's tenets, it must be obvious that he at least *thinks* logically, and that he respects and has faith in logic.

Chilton Williamson, Jr., was the literary editor of *National Review* when this article was first published in the Summer 1981 issue of the *Review*. He has since written many books and novels.

Question his *a priori* and his Q.E.D. if you like, but you have at least to admit that a respectable mental process is at work that is every bit as rigorous as the scientific and materialist one. This “superstitious” man can tell you why he thinks abortion is wrong, and how he thinks it is wrong. He can discuss confidently the origin of man and his condition; he can explain clearly the rules governing human life and the risks incurred by breaching them. He has a fully developed metaphysic in which everything in creation has a place and a function, and there is within him an inborn and inbred knowledge that is no less real for being in certain specifics inarticulate. Generalizations come easily to him, for he does not believe that every question is an open question; but he is reasonably adept, as a result of his moral and intellectual training, at making distinctions. Distinctions in fact are his meat, as they were Aquinas’s.

What, by contrast, can be said of the logical processes and intellectual rigor of the average pro-abortionist? Even on cursory examination his arguments turn out to be sociological superficialities drawn from the textbooks of mass education, political slogans, and appeals to social and political convenience. All of them are—often self-avowedly—*ad hoc*, and all of them are to a greater or lesser extent the product of emotion, not reason, in the sense that the conclusion demanded dictates the supply of logic required to arrive there. The pro-abortionist Wants Abortion and He Wants It Now. And he has been taught at college how to get what he wants, and how to justify it intellectually.

The deeply emotive basis of the pro-abortionist argument is partly apparent in the flagrant contradiction between his casual attitude toward the taking of fetal life and his positively debilitating reluctance to aggress against any other manifestation of Life. Abortionism is often considered to be a litmus test of liberalism in full flower, yet it is clearly a perverse and willful—and dishonest departure from it. It is an exception of which no good liberal—*almost* no good liberal—dares speak the name. It is the Dirty Little Secret of the liberal mind and the liberal agenda.

Of course, the pro-abortionist can argue that he is indeed on the side of Life in this case as in all others—he is defending the mother’s life, or at least her good life. Nevertheless, it is in his emotions that he is consistent, not his logic. Faced with adjudicating the claims of two coexistent lives, he finds for the larger and more immediate one. Human emotions attach themselves most readily in loyalty and affinity to the nearer and more accessible things. Here is a lusty, healthy woman, with a blob of protoplasm in her womb. Understanding tells him—could tell him—that though the woman has a husband, an address, and a social security number, the blob, which has a complete genetic code, is as human as she is. Prejudice—and the liberal predilection for embracing the claims of the most proximate constituency of credible victims—tells him otherwise.

Although in the matter of abortion such a “liberal” proves himself capable of making an exception, he fails to show that he is able to make distinctions between the various integers, and their values, of this Life he worships. “All right,” he tells his opponent, “you’re opposed to abortion. Then how come you support capital punishment?” He puts this question with truly righteous indignation, and with the

forceful assurance that the challenge is unanswerable. Talk about distinctions, about inflexible positions! What sort of person could equate an unborn life, innocent of personal sin, with the life of Charles Manson?

There may not, in these days of relative peace, be very many card-carrying pacifists walking around, but certainly there has never been a time when armed struggle between nations was regarded less realistically than it is today. Vietnam may have fallen to a barbaric Communist regime, the Russians may have invaded Afghanistan, and “Marxists” may be plotting mayhem in El Salvador; but still, liberal opinion registers No at the idea of sending American forces anywhere to fight for anything. It says No as much to the proposition that our enemies should lose their lives as to the suggestion that our own boys should die. “Why, if you are in favor of abortion,” an anti-abortionist might ask, “are you against sending troops to shoot, or be shot by, Cubans in Angola or guerrillas in El Salvador?” (There is, of course, no answer to *that* question: at least it never comes.)

In the United States, a blind and indiscriminate reverence for biological life has led over the past couple of generations to an anthropomorphic attitude toward nonhuman life. Animal life, according to this notion, is of the same intrinsic value as human life, is subject to the same scheme of natural law, and is even claimant to the same rights, as a whole school of Animal Rights writers, including Cleveland Amory and Peter Singer, have insisted. In company with humanity, they are part of a web of Life that is physically and intellectually, but not spiritually, differentiated. This sort of vulgarized Pantheism, which in its unsimplified Eastern form possesses a much greater moral and theological complexity, has of course nothing in common with Western Judeo-Christian philosophy and ethics, which are settled on the premise that man and beast are separate categories of the Creation. Man has been classically defined as an animal possessing rights, while an animal can be said merely to possess life as an attribute. Sin is an offense of which man alone is capable and of which he is guilty by actions which involve him in a perverse relationship either to his fellow man or to his Creator.

The holistic and sentimental view of Life seems now to be leading beyond anthropomorphism to animism. Environmental organizations like the Sierra Club have developed an attitude, and a vocabulary and syntax to go with it, which treat forests, pampas, wetlands, deserts, and every form of topography as if they have a claim upon their own existence that approaches something very close to rights. The Secretary of the Interior is under fire daily from furious environmentalists who are distressed for the fate of tens of thousands of square miles of helpless oil shale and who seem to be speaking literally when they talk of mountains being “raped” by oil drillers, canyon bottoms “bludgeoned” by four-wheel-drive vehicles. This is of course the age of the metaphor, ingeniously and ingenuously applied to the point where a poetic truth is transformed by rhetorical sleight of hand into a factual one. But somehow you get the feeling that these people mean it.

Persons who are so easily led into excesses like these—people who can condone

the murder of an unborn child while weeping over the shooting of a mule deer or the bulldozing of a mountain surely can be said to lack a clear and coherent understanding of the Life they celebrate. We are living supposedly in the age of Science, which is inherently opposed to sentiment. We moderns are assumed to have learned to see life directly, without the interposing gauzes of supernatural belief. The erstwhile slogan of the intellectuals, "We are all Marxists now," has been altered to "We are all scientists now." The secular city has banished sentiment as an arbiter of morals and social attitudes and replaced it with educated reason. Once human life has been removed from its religious context, once it has been demystified, all the illogical, irrational, and superstitious assumptions that have determined the way men think about it are expected to untangle themselves and the conditions of life, together with the rules that govern it, to become logically accessible. Stripped of superstition, we may proceed to think sanely about this Life we carry around with us like a happy tumor.

Unhappily the notion that Religion equals Sentimentality leads directly to the erroneous idea that sentiment cannot exist apart from religious sensibility, and that secular humanism is immune to emotionalism. In every era of the modern age some vulgar inspiration has shaped the mass sentiment of the time. In the late eighteenth century it was Democracy; in the Victorian period it was Progress; today it is Life. In Charles Dickens's day popular sentimentality permitted Victorians, eminent as well as humble, to weep over the death of Little Nell and similar pitiable scenes in literature, theater, and the opera; in the final quarter of the present century, indignant newspaper readers grieve over accounts of legal executions, the killing of baby seals, and the strip-mining of the western plains. Dickens had a morally discriminating audience which demanded that the characters for whom his readers were expected to expend their sympathy be worthy of the gesture. The new sentimentalists, by contrast, are ready to cry for anybody and everything, except the victims of the *abortoires* they support.

In theory perhaps the demystification of human life makes for a more rational attitude toward Life and its inevitable obliteration; in fact it has produced a more irrational one: When men are led to believe that in their lives and in Life itself resides the ultimate Good against which every other Good is to be measured, they can scarcely be rational in their attempts to preserve it, or even to contemplate it.

APPENDIX A

[This is the text of a statement made by Dr. Charmaine Yoest, president of Americans United for Life, at a news conference hosted by United States Representatives Renee Ellmers (R-NC) and Randy Hultgren (R-IL) at the Rayburn House Office Building in Washington, D.C., July 14, 2011; following it is the Executive Summary of AUL's "The Case for Investigating Planned Parenthood"; the entire study can be accessed at www.aul.org/aul-special-report-the-case-for-investigating-planned-parenthood.]

Statement of Americans United for Life President & CEO on the need for Congressional Hearings and Investigation of Planned Parenthood Based on AUL's Report "The Case for Investigating Planned Parenthood."

Charmaine Yoest

Thank you Congresswoman Ellmers and Congressman Hultgren for hosting this event today and for your principled stand on behalf of the American taxpayer against federal subsidies for the abortion industry.

By Planned Parenthood's own accounting, \$363 million—one-third of its budget annually—comes from the American taxpayer. While Congress is discussing going deeper in debt and raising the debt ceiling. . . our government is quietly subsidizing the world's largest abortion provider with \$1 million a day.

AUL's Report documents that "as the government funding of Planned Parenthood has doubled since 1998, the number of abortions performed by Planned Parenthood has also doubled."

According to last year's Government Accounting Office audit of Planned Parenthood, in the six years between 2002 and 2008, the abortion giant spent \$657.1 million dollars of taxpayer money.

However, AUL's legal team has documented that Planned Parenthood's own annual reports from that same time period show over \$2 billion dollars in unspecified "government grants and contracts."

That's a remarkable discrepancy. \$657 million dollars. . . or **\$2 billion dollars**. Which is it? And what was the money used for? During this same time period, Planned Parenthood performed over 2 million abortions. The American taxpayer deserves an accounting from Planned Parenthood for its use of scarce tax resources and they deserve to know just how much money is really flowing into the abortion industry.

These questions are even more pressing given the track record of Medicaid fraud demonstrated by Planned Parenthood local affiliates. The AUL Report documents four cases—in California, New York, New Jersey and Washington state—where Planned Parenthood affiliates have been exposed for fraudulent overbilling practices.

American taxpayers are being forced to directly support this abortion-saturated organization which is fraught with fraud and misuse of government monies.

We are very grateful to the Members of Congress who have stepped forward today to take a stand on behalf of the American taxpayer in calling for an investigation and hearings into Planned Parenthood and its systemic abuse of federal funding.

Executive Summary

Although the Planned Parenthood Federation of America (PPFA or Planned Parenthood) advertises itself as an organization promoting health for women and families, it is the nation's largest abortion provider and has been plagued by scandal and abuse.

Furthermore, PPFA and its affiliates receive hundreds of millions of dollars in taxpayers' funds every year—a significant portion of which comes from the federal government.

PPFA often tries to underplay the significance of abortion to its business model. However, as this report details, abortion has a tremendous impact on Planned Parenthood's bottom-line. This is true to a greater degree each year, and Planned Parenthood has plans to expand its abortion business.

In this report, Americans United for Life documents the known and alleged abuses by Planned Parenthood, including:

Misuse of federal health care and family planning funds. State audit reports and admissions by former employees detail a pattern of misuse by some Planned Parenthood affiliates.

Failure to report criminal child sexual abuse. Substantial and still-developing evidence indicates that many Planned Parenthood clinics fail to report all instances of suspected abuse, and instead advise minors and their abusers on how to circumvent the mandatory reporting laws.

Failure to comply with parental involvement laws. Some Planned Parenthood affiliates exhibit a pattern and practice of violating and circumventing parental involvement laws.

Assisting those engaged in prostitution and/or sex trafficking. Some Planned Parenthood clinics have demonstrated a willingness to partner with pimps or sex traffickers to exploit young women instead of safeguarding their health and safety.

Dangerous misuse of the abortion drug RU-486. Planned Parenthood's admitted disregard for the FDA's approved protocol puts profits above women's lives and safety.

Misinformation about so-called "emergency contraception," including ella. Planned Parenthood boasts of its role in the approval of a new drug ella, yet provides considerable misinformation about the drug.

Willingness to provide women with inaccurate and misleading information. Some Planned Parenthood affiliates continually demonstrate a disregard for women's health and safety through their willingness to provide inaccurate and misleading information regarding fetal development and about abortion's inherent health risks.

Willingness to refer to substandard clinics. Some Planned Parenthood affiliates put the lives and safety of women and girls at risk by associating with substandard abortion providers.

In addition, this report documents the efforts of Planned Parenthood and its affiliates to defeat legislation intended to protect women and families, and to overturn common-sense federal and state laws, further enriching their “bottom-line” with attorney fee awards. In order to assess the extent of the scandal and abuse at PPFA and its affiliates, a full-scale, thorough Congressional investigation is necessary. In this report, Americans United for Life poses potential questions aimed at uncovering the depth of the problems within Planned Parenthood.



“I don’t recall donating my body to science.”

APPENDIX B

[William McGurn is a VP at News Corp and Wall Street Journal columnist. The following lecture was given on June 16, 2011, as a part of a public lecture series inaugurating the Notre Dame Vita Institute, a prolife educational initiative of the Notre Dame Fund to Protect Human Life. It is reprinted here with Mr. McGurn's permission.]

Remarks at the Vitae Conference

William McGurn

Thank you, David, for those words. Though you did make it sound as though I can't keep a job.

What a happy evening this is, to be standing on these grounds ... talking to a group like this one ... about the great cause of our time.

Some of you, I know, are discouraged by the slow pace of progress we are having on the life issues. Some of you may even feel, with good reason, that we have been losing ground. Notwithstanding that I am a paid up member of a profession that a now-infamous vice-president once characterized as “nattering nabobs of negativism,” I find I come down on the side of hope.

At times, I confess, I'm as surprised by that as anyone.

In good part where you think we are at today depends on where you think we started from. Back when my hair wasn't as white as it is now, I took the long, overnight bus ride from South Bend to Washington for the 1977 March for Life. Back then, it wasn't hard to get a head count from ND. It was myself and a gal from Saint Mary's.

Nearly three decades later, while working in the West Wing for George W. Bush, I learned that each January 22, the Notre Dame-Saint Mary's community now sends at least five busloads of kids to the March. I learned that because these wonderful kids slept on the gym floor of my parish in Arlington—St. Agnes. In the last year, Father John Jenkins marched with them.

Lest you think that means nothing, ask the moms and dads who have been making the trip for years what it means to get off one of those frozen buses, with your cold coffee in your hands, and look up to see a group of kids in Notre Dame sweatshirts. Ask them how their hearts skip a beat when they spot a Roman collar on the man accompanying these ND students up Constitution Avenue.

Ask them and they will tell you this: When they see Notre Dame standing up for life, even the most tired souls will tell you it inspires them to go out and shake down a little more thunder.

So on those days when you are inclined to look at the long road ahead, do not forget how far we have come. We who breathe this Indiana air, enjoy this fine company, and have our hearts lifted by the beauty of this splendid campus can do so because we have been given the great gift of life.

The Lord who gave us this life fashioned us in His image. And my friends: He did not permit us the luxury of losing heart.

Two years ago I came here to deliver another speech, one provoked by the honors

bestowed by the nation's most prominent Catholic university on a determined pro-choice President. I appreciate that for many in that Main Building just a few hundred yards from here, my remarks did not win me much popularity. I accept that. My aim is to impress upon folks here how desperate the most innocent of this great land are for the unique talents and grace that Notre Dame might bring to the struggle for life.

Tonight I say: *You* are that story. You are calling Notre Dame and our nation to their better selves. Your willingness to speak for those who cannot speak for themselves inspires others to do the same. And your witness is bringing hope to a broken world.

We see that hope in the tremendous work of the Center for Ethics and Culture—and the good men and women who make it possible. We see that hope in the Notre Dame Fund to Protect Human Life, the sponsor of this conference, whose very name signals to thousands of alums and subway alums that, yes, Notre Dame is fighting the good fight. And we see that hope in the Vitae Institute and the Guadalupe Project, which have made the great bet that a small handful of determined people can make a big difference.

We know that for these good people, this work is its own reward. But we also know there is grace in a simple thank you. So I ask you now: Join me in a Notre Dame cheer for the men and women who have brought us together—and will send us forth to build an America that celebrates human life.

When I was invited here, I was asked to reflect on my time in both politics and journalism—and then offer some thoughts on the most effective tactics for addressing life issues. I have done as asked. So tonight I'd like to discuss three broad areas:

- First, the kind of America we are striving for;
- Second, why the victory we seek can come only through persuasion;
- And last, why the only tactic that matters, the only tactic that cannot be resisted, is the one that is not so much a tactic as a Gospel command: loving our neighbors as ourselves.

Let me begin with what we are after.

We come here tonight because we share a belief in the unalienable rights elucidated in the second sentence of our Declaration of Independence. We come here because we also believe that when our Founders issued these magnificent words, they were, as Martin Luther King put it, “signing a promissory note to which every American was to fall heir.” In this context, we recognize that *Roe v. Wade* is less important as a judicial decision than as a beachhead for a philosophy that makes an unalienable right to life contingent on that life's convenience to others.

In the decades since our Court so ruled, we have seen that anti-human philosophy expand—to the old, whose continued treatment may come to depend on a determination about their “quality” of life ... to the sick, who might be left to die ... to those deemed less perfect than the rest of us, whose lives are so often snuffed out in the womb. Let me cite just one chilling statistic: in our country today, 90% of children found to have Down syndrome are aborted before they can bring their smiles into this world.

APPENDIX B

In other words, the ethic of *Roe* is an even larger challenge than the legal *Roe*. And our answer must be equally large and ambitious.

We are not simply after the outlawing of abortion, though a law may be the result of our efforts. Nor are we for a judicial decision that imposes our views on America, though honest and sound judicial rulings will certainly be crucial if a culture of life is to prevail. We stand for something much more difficult and far more consequential: an America that protects the unborn in law because she welcomes them in life.

This is the America of our dreams, and there is only one path to it: through the persuasion of our fellow citizens.

At times it might be tempting to think, “We are just one judge or one law away from getting what we want.” At these moments, it’s important to recognize that the only secure defense for the unborn is persuading our fellow citizens of the dignity of each human life. That’s true of the unborn child, yes, but it’s true of the mother and father too—and it’s true even of the men and women who would abort that child.

The pre-eminence of persuasion is true for both practical and constitutional reasons. With regard to the constitutional, we can see that far from settling the abortion question—as the Supreme Court Justices so blindly thought they were doing in 1973—*Roe* prolonged and made more poisonous a debate that ought properly to have been left to work itself out in the democratic process.

With regard to the practical, medical technology is such today that abortion and the threat to innocent life will remain a serious option no matter what the law says.

If our goal is to uphold the worth of each human life, we must change hearts as well as laws. And in a free society—where authority rests on the consent of the governed—persuasion begins with returning the issue to the people.

On this point we have more allies that we might suppose. Every one of you in this room has heard someone say that while he is personally opposed to abortion, he does not wish to impose that view on others. Less well appreciated is the obverse of that position.

These are the scholars and jurists who are personally *Un*-opposed to abortion—but very much opposed to the kind of outcome-oriented abortion rulings that have come with an activist judiciary. These are men and women who understand that today it is the anti-life side ramming their preferences down America’s throat. These people appreciate that the laws of a free society ought to reflect a political consensus—not impose a judicial predisposition.

Now, it’s true that the process of passing a law is itself an exercise in persuasion. The debate over the law . . . the appeal to public sentiment . . . and the compromises made to reach a majority—these are all parts of a process that forces healthy debate and clarifies public sentiment.

It is also by its nature messy. We are a large country, with a range of views. Given their way, the people in California are likely to have different ideas about what the law should say about abortion than the people in Louisiana. That fact can be unsatisfying for people who want one tidy solution.

I ask you: Do not make that mistake. Do not make the perfect the enemy of the

good. Instead, in all things, direct your appeal to the good hearts of the American people.

The critic will answer: but what if the hearts of the American people are corrupt? What if they *want* abortion? The answer remains the same.

For if the hearts of the American people will not be moved, then no law proscribing abortion will be successful.

Which brings me to my last point: Whether the hearts of the American people be hard or not, we are commanded to presume that we can speak to them—to appeal to their better angels.

When Martin Luther King spoke on the great Mall in Washington, we were a land of segregated buses ... two-tiered justice ... and rights called unalienable on paper denied in practice. At all these injustices, King choked. Yet when he gave us his dream, it was not a call for exacting justice. It was for a tomorrow where “the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood.”

As a newspaperman, I am no stranger to strong, bracing words. Of late, I have heard a great deal about civility. My experience is that civility, while necessary, is rather cheap compared with love.

In our own lives, when it comes to those we love, we know with Dr. King that speaking hard truths can be an imperative of love. We know too that when we are on the receiving end, words we do not want to hear sting more when they come from love rather than springing from a source more easily dismissed. And we know that love of neighbor, if it is to mean anything, means at times risking that strong reaction when the easier thing is to let it slide.

In the things that affect those we cherish most, we understand this and behave accordingly. In our daily lives, it is not hard to be civil to a neighbor or acquaintance with a serious problem: drugs, drinking, or infidelity. In fact, civility makes it easier to deal with such a person, especially in social settings.

If the person who has such a problem is a father, daughter, or loved one, however, it's a very different story. With those we love, we can be a damned nuisance. We pester ... we pursue ... and we speak hard truths that those on the receiving end definitely do not want to hear.

Love is patient, yes. Love is kind, yes. But, my friends, the best love is often tough.

I know, I know. The news racket—of which I am a practiced hand—nurses its narratives and caricatures. If there is an angry old white man with a pickled fetus or a bloody placard, he will make the front page—while the young woman pushing a flower through a fence will not. In like wise, we know the contempt and derision with which our gestures of love might be rejected by those we are trying to persuade.

It does not matter. The heart is not so easily fooled as the brain. Abbey Johnson was the director of a Texas Planned Parenthood clinic whose whole outlook forever altered in the moment she watched a fetus respond to the surgical knife that was to end its life. In reading her new book, I was struck by the patience and love of the prolife community who prayed around her center.

These dedicated men and women saw this Planned Parenthood director as a

human being with God-given worth and dignity. In time—God’s time, not ours—she responded to that love. And she was welcomed. If ever you are tempted to despair, read this good book and you will know that love does conquer all.

And Abbey is by no means alone. Remember Norma McCorvey? Norma was the Jane Roe of *Roe v. Wade*, once a champion for abortion. Now she is a Catholic and an opponent. Sandra Cano, the Doe in *Doe v. Bolton*, who now runs a prolife ministry? Or Bernard Nathanson, the doctor who by his own admission performed nearly 65,000 abortions—including that of his own son.

When he died earlier this year, Dr. Nathanson too had entered the church. There he found not just the truth about abortion, but about love. In short, Dr. Nathanson was a man whose second act started with a qualm—and ended with a conviction.

We’re all like that. Abortion has taken so many innocent lives that at times we can forget it has also ravaged so many among the living. Women who have tasted abandonment. Families that never were. Men whose pregnant girlfriends rejected their pleas for an abortion—and now must live with the knowledge that there are beautiful children who know their own dads wanted to do away with them. What kind of hell that must be for a man.

So many of our fellow citizens have been wounded by what Pope John Paul II called the culture of death. To reach these people, to get to their hearts, we must bring our hearts where our tongues are far too eager to tread.

The British writer Malcolm Muggeridge—the man who made Mother Teresa famous—once told me he’d asked her about whether she really could see Christ in *everyone*. After all, in a place like Calcutta, she had to deal with some rough customers. Wasn’t all this talk about seeing Christ in the face of others just a platitude?

Mother responded, “When we see someone like that, we say to ourselves, ‘there goes Christ in one of his more distressing forms.’”

If we’re honest with ourselves, we recognize that we all take on distressing forms at times. In my half century on this earth, I have heard the cock crow more than once. So I count myself among those who are grateful that the love that sets us free is not contingent on our having earned it.

So here we are. You have asked for a practical lesson in tactics—and I have delivered you a homily. Yet my madness is not without its method. For I speak to you firm in a belief, born of experience, that no strategy built on purely tactical measures about ending abortion can succeed—just as no effort rooted in Christian love of neighbor can ever really fail.

So I now leave you with the most practical advice I have: Do not fret too much about tactics. Never measure success by numbers.

Above all, as you labor for the unborn, remember that you are laboring too for the mother who would take that life . . . for the boyfriend pressuring her to do it, and for the Planned Parenthood director who would make it happen. I promise if you can do these things, you will never go wrong—and the tactics will take care of themselves.

God bless you all. Thank you for listening. Notre Dame du lac, pray for us.

APPENDIX C

[*Sherif Girgis is a Ph.D. candidate in philosophy at Princeton University. The following interview ran April 13 and April 15 on Public Discourse: Ethics, Law and the Common Good (www.thepublicdiscourse.com), the online publication of the Witherspoon Institute. Copyright 2011 the Witherspoon Institute. All rights reserved.*]

An Interview with Arthur Caplan & Robert P. George

Part One: Stem Cells: The Scientists Knew They Were Lying?

by Sherif Girgis

In December 2010, Sherif Girgis sat down with Arthur Caplan, a professor at the University of Pennsylvania and unofficial “dean” of liberal bioethicists, and Robert P. George, a professor at Princeton University and a conservative member of President Bush’s Council on Bioethics, to discuss the current state of bioethics in America. Today and Friday we present an adaptation of that interview. —Ed.

People sometimes contrast those who go on evidence, facts, science, and reason, with those who “politicize the science.” But both of you seem to think that besides scientific findings, moral norms have to govern scientific inquiry and medical practice...

AC: That’s why Robby and I can get along. We’re just fighting about the norms. But we both know that you have to have normativity. Bioethics without norms is completely blind!

...and that those norms are not going to come from science.

RG: No. Bioethics is ethics, and ethics is about right and wrong. We know you can’t go about figuring out what’s right and wrong by scientific methods. So the norms have to come from somewhere else. And since we are a democratically constituted people, we are going to have to resolve by democratic procedures disputes about what the norms are, and how they apply in particular cases. Now that, I’m afraid, is politics. Not in some pejorative sense—rather in a good sense, in the democratic sense. Together, we deliberate, debate, and decide. So I think the juxtaposition that you mentioned is just phony. It’s not a dispute between the people “who believe in reason and evidence” and people who “are opposed to science.”

AC: You can pile up evidence to the size of the Jungfrau, but if you don’t have norms, evidence does you no good. But some out there believe that the evidence speaks for itself.

The scientific evidence speaks for itself?

AC: Yes, there are adherents of what might be called logical positivism, or scientism.

They are out there! They believe the facts alone dictate moral choices.

RG: I agree. I would add that it is highly ironic that the scientism that Professor Caplan observes out there, and rightly condemns, is often embraced by people who regard themselves as especially sophisticated and even enlightened.

AC: Yes, yes. As an exemplar, take some of the writings recently of Zeke Emanuel,

the doctor who's been whispering in the ear of Obama. Rahm Emanuel's brother.

RG: He was the Director of the Bioethics Council under President Clinton.

AC: Zeke and I actually have been arguing more contentiously than Robby and I over the past few years because Zeke is an exemplar of scientism: "If we all collect enough evidence, it will be clear we should do X." I disagree. You need normativity to do both ethics and bioethics.

So in light of what you're both saying, is there a way of separating science and religion—or of walling off the influence of religious views from the settlement of these policy issues, in a country where many get moral guidance from their faith traditions?

AC: That isn't going to happen. But the religious communities have to engage one another, too. I think what science does, relative to the religious discourse, is it tries to protect its self-interest. So scientists generally have a very strong commitment to freedom of inquiry, no matter what the heck they're doing. I have to say it's not quite my view. Freedom of inquiry is a great thing. But most scientists also want NIH money, or tax money. Science needs public funds; it's a hugely expensive public endeavor. So scientists have to make their case to the public. They're used to doing what they want, under the idea that freedom of inquiry will bring the public the most returns. They also have an advantage over religion in that they can deliver shorter term but more immediate rewards. You can at least turn on your heater due to physics. Where your soul is in the afterlife...

Jury's still out. [*Laughter*]

AC: But at the end of the day, they've got to convince the polity and the religious traditions. Sometimes, if you're trying to make room for scientific advance, you try to play into the divisions of religious opinion. But the most powerful thing that happened in the stem-cell debates was not arguments by Robby or by me. It was patient advocacy groups speaking up. You come in and say, "I'm in a wheelchair, or my child has diabetes..." Very, very powerful. It's not religion, but let's call it a normative stance that is enormously forceful. You must help those in desperate need. That's how things get settled—not science alone.

Let's talk more about that bioethics debate. Leading up to 9/11, public funding of stem-cell research in which human embryos are destroyed was a huge issue in American politics, and it deeply polarized the country. There was a very long and public deliberation by the president. To some degree it antagonized some people in the scientific community against some people in the religious community. Was it worth the polarization, the social and political costs?

RG: To me, at stake was our fidelity to the principle of the sanctity of human life. So I could not have yielded and said, "Well, that's not important." At the level of principle, I think probably both sides would say that it's a big issue. But my sense is that it got blown enormously out of proportion as far as the practical significance of a policy one way or another was concerned. First, because it became useful politically. It was a way for Democrats to marshal their base against Bush in 2004.

Ron Reagan, the late president's very liberal son, to my mind just wildly hyped the potential therapeutic promise of embryonic stem cells. I think a lot of people were led to believe—and to what extent scientists were responsible for this is an interesting question—that if only the regulations were relaxed, embryonic stem-cell science would be central to our medical research and practice going into the future, and that it would massively alleviate suffering and produce cures for dreaded diseases. But it wasn't true. Prescinding from the ethical questions, my own view is that there *are* scientifically interesting things that can come of embryonic stem-cell research, but that even without regulation, it wouldn't be central. It doesn't promise anytime soon, if ever, the amelioration of suffering or cures for dreaded diseases.

AC: So far I don't disagree with that too much. Embryonic stem-cell research was completely overhyped, in terms of its promise. And people knew it at the time. I tried to say so myself at different times myself, even though I support embryonic stem-cell research. But this notion that people would be out of their wheelchairs within a year if we could just get embryonic stem-cell research funded was just ludicrous. Just simply silly.

RG: They knew it at the time?

AC: Yes, those saying it had to know it at the time. The scientists had to have known that. Who has ever delivered a cure in a year from something that's basically a dish? That's never happened. Gene therapy was promised as a cure for everything, and it is now starting to cure things, *15 years* after the initial gene therapy experiments in dishes were being done. I think embryonic stem-cell research—if it works out, if you can control stem cells derived from embryos, if they don't revert back... but we don't know what chemicals to put around them, to get them to become what we want. We don't know where to put them. But the politics of that issue were abortion politics, meaning that one side had as a principle, "Don't kill." The other side had as a principle, "You've got to cure." And that escalated the rhetoric. So I think the science got hyped in response to the politics. Norms drove the debate. Embryonic stem-cell research for me is one of what I might list as 20 scientific frontiers that you might want to pursue. It's not *the* frontier, but it's one of a number of them.

RG: But it sounds to me like a niche.

AC: Oh it's a niche, absolutely. Bio-banking, synthetic biology, bioagriculture, regenerative medicine at the adult stem cell level... There's a bunch of areas of science with equal promise—

RG: If scientists *knew* that what they were doing was hyping it, then—even laying aside the ethical question about the status of human embryos—it seems to be deeply dishonest, clearly wrong.

AC: Here's an assertion that you hear all the time: "Stem-cell research will help Alzheimer's." But stem cell research has *no possibility* of helping Alzheimer's. Alzheimer's is a gunk-up-the-brain disease, where every cell is affected. You can't fix it by any sort of stem cell research. Model it? Maybe. Cure it? Never.

RG: In 2003 or 2004, a major *Washington Post* article quoting the central authorities on this made exactly the same point. Now that's the kind of dishonesty

that threatens to alienate the public from science. Because even if the public buys it in the beginning, and the scientists win the political debate, when they can't deliver on the promises they made, people's faith in scientists—crucial for the funding of science—is placed in jeopardy.

AC: I think it's worse. There's a clinical trial going on in California with private funding, for a spinal cord study. That study is poorly designed, shouldn't go on—I've said so. The model that you want to use on stem cells is in your eyes: if you wreck one, you still have the other, and they're easy to access. But trying to shoot cells—and you don't know what they're going to do—into someone's spinal cord on the basis of a few rat experiments... If that goes wrong, the hype has been such that when critics come in and say, "it shouldn't have been done," it will set the field back to zero. I've tried to tell my science colleagues, "If you make a mistake on this first trial, and kill somebody? You can hang it up."

RG: I think there was a warning that should have been heeded that came as a result of the exposure of the fraud committed by the South Korean scientist Woo Suk Hwang in 2004. If I recall correctly, his paper had been published in *Science*, and it had been fast-tracked in what seemed transparently to be part of a political effort to sell the public on human cloning to produce patient-specific embryonic stem cells. Since this would serve the political cause, normal checks that would have prevented the publication of a fraudulent paper were not observed, and it turned out to be fraudulent.

AC: And a little less lofty: "Give it to us, because if you give it to, say, *Nature*, they might slow it down!"

RG: [*Laughter*] Is that what happened? Well, the cutting of corners for political reasons is such a dangerous thing to do—to science. But when Ron Reagan was trotted out at the 2004 Democratic National Convention to make these preposterous claims about Alzheimer's, of course you spoke out—but were there others?

AC: There were and there weren't. Because at that point, I think what happened was that the polarization of the politics got so bad that it was a team philosophy.

So it would look like you betrayed your side if you spoke out with the truth?

AC: Definitely... It's a little harder to be a moderate in the middle of that. I can give you a parallel: Terri Schiavo. I was vociferous in my insistence that the husband should make the call in the case of Terri Schiavo [about whether to continue her artificial nourishment after her severe brain damage]. But one thing I knew was that she was absolutely permanently vegetative. She had two heart attacks; she wasn't getting oxygen to the brain. People were saying, "I could hear things in PVS." Doctors said, "I can make her better." And no one on the other side would say that was bull. So certain factual claims get laid aside in the heat, when bioethical disputes move up to culture war level. I can moan about this. "Alzheimer's disease? Really, a systematic disease of the brain? You're going to replace every cell in the brain with embryonic stem cells?" But you know, the price of entering into that arena is you can lose or be put in the service of what you know to be purely politicized debate.

RG: Art and I disagreed about the Terri Schiavo case, but the fundamental point he is making here is absolutely right. Back on the embryonic stem-cell debate, there were people on my side of the ethical question who contended that there was absolutely no reason to pursue embryonic stem-cell research even if the stem cells could be obtained without destroying embryos, because (they said) everything that could be done with embryonic stem cells could be done with adult stem cells and we knew it. Well, I knew that we knew no such thing. To admit the truth that there very well may be uses for embryonic stem cells—not therapeutic uses at any time soon or perhaps ever, but in basic science, or perhaps in the construction of disease models—one needn't abandon one's principled position against the destruction of embryos.

Part Two: Democratic Bioethics and Eugenics

AC: In the early days of bioethics, we had these conferences at the Hastings Center, where I began my bioethics career, where Alasdair MacIntyre, Paul Ramsey, Leon Kass would come and talk about issues. And I began to form an idea of what bioethics' role was—and I still believe it to this day: My philosophical idol is Socrates. He worked frequently in the public sphere. I think as a bioethicist you try to alert the public, you warn people, you push to see what's true, but at the end of the day, bioethics gets out of the way. You don't issue final judgment; you must resolve issues in the political sphere. If Robby's guys get elected all the time, and they ban embryonic stem-cell research, I'll scream and yell, but if that's what people decide, that's what people decide. I favor bioethics commissions that raise issues, clarify them, and then give them to the polity to resolve.

RG: Well, it's true that President Bush's council on bioethics, on which I had the honor to serve, sometimes went beyond advising the president of the United States himself. But it's worth remembering that the Executive Order creating the Council included a mandate to "provide a forum for a national discussion of bioethical issues." The collected readings we published were an effort at large-scale public education. I think that kind of work can easily be defended, and the best defense is that by doing it under the auspices of a commission, and especially an ideologically diverse commission like ours, it is possible to draw attention to the basic values issues that Americans should think about when they consider bioethical questions. I doubt that it would be possible to do it as well in reports issued by, say, Princeton University, or even the premier center for bioethics here at the University of Pennsylvania. If the commission is not the place, where, then? Because the universities aren't doing it very well, and perhaps can't.

AC: So it's funny you should say that, because I've also thought—and I don't know how to make this happen, exactly—but if I had a politician ask me for advice on something, I'd like to be able to bring Robby in—really—and say, "I'll tell you my advice, and you can listen to the minority, distorted, bizarro other opinion..."

RG: Soon to be the majority! [*Laughter*]

AC: But here it is, listen to the other view, and you'll get more from a conversation than you might from me just talking to you.

RG: Art is absolutely right on this. I was asked by three Republican presidential candidates in the run-up to the 2008 election for briefings on embryonic stem-cell research. Senator McCain, Governor Romney, and Mayor Giuliani. Mayor Giuliani did it differently than the other two. He invited me and an advocate of embryonic stem-cell research from one of the New York-based patient advocacy groups to discuss the question with him. Essentially, it was a debate in front of Mayor Giuliani. And I do think that it was more fruitful than the other two briefings, where I had my little captive audience, but would just give my best answer when they asked, "Well, why do the people on the other side think what they think?" And I'd try to give the argument, but I think I was probably less effective in giving the argument than someone who actually believed it.

Let's have one of those exchanges now about a big issue in bioethics: eugenics. You have people like Professor Kass, who are warning that it is popping up again in the availability of certain options for improving the gene pool or selecting for or against early human life that has certain defects and so on—but that the "new eugenics" are disguised as opportunities for practicing autonomy, and that, as a result, they are viewed as morally okay. Do you think that's happening, as a factual matter? And is even uncoerced eugenics wrong in principle? Was eugenics in the 1930s, say, wrong only because it was coercive, or also because it was eugenics?

RG: You've heard me make the argument about human dignity without any appeal to religious authority or biblical revelation or theological premises. But the most vivid expression of that idea is that man is made in the image and likeness of God. Whether or not that's literally true, I would still hold that human beings have a certain dignity that distinguishes them from other material objects that we know about. There may be other creatures in the universe that possess a rational nature, and I would say that if there are such beings, they too are of inherent and equal dignity and cannot be reduced to the status of mere means or property. In the end, this is really the only reason to oppose something like slavery, or to consider that domination and conquest are a bad thing. So people who oppose these evils have to embrace some notion of the special worth—we can use the word "dignity" or "sanctity"—of a human being. But that means there are some ways you can't treat human beings. You can't treat them as instruments, or just the way you treat cows and horses. That is true even when it comes to breeding, or to improving the quality of the race. Or treating them like products—this is what Leon Kass is so worried about. He's worried about reducing human beings to the status of products of manufacture. And he's absolutely right to be concerned about that. That is incompatible with our dignity as human beings. Which leads me to think that the problem with eugenics is *eugenics itself*. It's not just that the eugenics practiced by the Nazis was coercive. The idea predated the Nazis. The book *Die Freigabe der Vernichtung Lebensunwerten Lebens (Allowing the Destruction of Life*

Unworthy of Life) was not written by the Nazis. It was written by German progressives in the Weimar period, Karl Binding and Alfred Hoche, who were, respectively (as I recall), a jurist and a medical doctor. And they weren't thugs like the Nazis; they were well-educated, well-intentioned, polite people—the kind of people that you'd be pleased to have dinner with. But I believe they embraced a very bad idea that was easily taken by the Nazis as a justification for the atrocities that they committed. So I would like to see eugenics itself, and not just the Nazi version of it, relegated to the ash-heap of history. Today we are seeing a revival in eugenics, this time under the cover of (and often in the name of) autonomy. People say, for example, that so long as it is parents who are choosing to abort a Down syndrome baby, or failing to treat a handicapped newborn, and it's not the state mandating it, then it's okay. That, I believe, represents the abandonment of something precious in our civilization and in our polity. And that's the idea of the equality and dignity of all human beings. This treasure of our civilization is the idea that, in some fundamental sense, all of us are created equal.

AC: So, I think that the coercion is, historically, really what made the Nazis' position absolutely wrong. They practiced government-mandated negative eugenics. They killed involuntarily as social policy to improve the German genome. So put that aside, that's just an issue of making sure you know when you're going to use the metaphor—it's not just eugenics, it's *that kind* of eugenics. So to me, I think that intervening to try to improve health and function is part of what medicine does. And there's some role for medical engineering and cellular engineering to achieve those goals. I think when you start to slide into the aesthetic and cosmetic improvements—I'm not sure that's something that society or the public has to fulfill. But do I think we will someday try to alter a genetic message to get rid of certain diseases? Yes. Do I think that we're likely to see the selection of certain types of gametes that might avoid certain clear-cut disease states? Yes. Do I think that the state has to be in the business of affording the opportunity for everyone to have a 6'5" basketball-playing mathematician? No. For me, there is some role for what I'll concede as eugenics—if you want to take eugenics as just trying to improve the overall hereditary health of the public. For example, if you could fix the child with Tay-Sachs, I don't think it takes away from the dignity of the child with Tay-Sachs.

RG: I agree. But would you draw the line at trying to enhance intelligence—

AC: I do. I think intelligence is so complicated that you don't know what the hell you're doing. If someone came to me and said, "Well, I'm going to try to enhance memory," that may be good and that may be bad. It's tricky business, number one. And number two, that isn't a disease. So I've never been a proponent of allowing sex selection. We don't allow it at Penn, actually. We could do it instantly. It's not that hard. And other places do it. But gender is not a disease. If you come to us and say, "Could I use gene therapy"—as I said, "for Tay-Sachs, or to try to improve muscular dystrophy"—I'd be first in line to say, "I think that's great, and we have to test it, and there may be some risk to that, but I'm okay with it," even though some in the disability community might say, "Well, then, your goal is to get rid of disability,

isn't it?" And I might concede at that point, "Yes—if I could do it."

RG: But not by getting rid of the disabled.

AC: Oh, no, no, no.

RG: Because that's the key distinction.

AC: I agree, but some in the disability community hear inferiority, lack of respect, when you say, "I'd prefer people who could function more." I've heard this with the deaf community. To me, hearing is better than not hearing. And it's pretty clearly a function you're supposed to have. It's true that you can sign, and that there is a deaf community. And I get that there's Gallaudet College. I'm not proposing to close them; I think you should fund them. But at the end of the day, if I'm the child of a deaf couple, I'd rather be able to hear and sign, and decide what I'm going to do from there. I'm not going to make a deaf baby because the couple says, "We want a kid like us." No steps should be made to honor that kind of autonomy—things that will harm or set back people. I'm worried for that reason about things like intelligence or athletic ability. You're narrowing futures, deciding what the kid is going to be, raising expectations, instead of allowing them to be more open. So I favor, if you will, 'eugenics' on the disease-elimination front, but I am not so crazy about performance-enhancement or the behavioral meliorism.

So it sounds like both of you have two distinctions you want to draw. One is between enhancement and therapy—

AC: Right. And many say you can't, but I think you can at the extremes.

And the other is between negative and positive, between destroying life that has the therapeutic problems versus—

AC: Trying to engineer it away. Medicine does that now, right?

RG: I think Art's reminding us of the ends of medicine: the goal of medicine is the restoration of healthy functioning of the organism and its parts, within the bounds of ethical norms. I mean, you don't restore health by murdering someone conveniently to get a heart for somebody else who happens to need a heart transplant. We understand that. That's just a plain violation. But my point is that when we treat medical professionals as people who are supposed to enhance our lifestyle choices—the kind of kids we want to have, whether our kids are good at math, whether they're basketball players and 6'5"—it causes medicine to lose track of its mission and places at risk its commitment to ethical norms shaped by that mission.

APPENDIX D

[Wesley J. Smith is a senior fellow in the Discovery Institute's Center on Human Exceptionalism, The following post appeared on National Review Online (www.nationalreview.com) on June 3, 2011, and is reprinted with permission.]

Kevorkian: A Dark Mirror on Society

Wesley J. Smith

The death of Jack Kevorkian by natural causes has a certain irony, but it is not surprising. His driving motive was always obsession with death. Indeed, as he described in his book *Prescription Medicide*, Kevorkian's overriding purpose in his assisted-suicide campaign was pure quackery, e.g., to obtain a societal license to engage in what he called "obitiatry," that is, the right to experiment on the brains and spinal cords of "living human bodies" being euthanized to "pinpoint the exact onset of extinction of an unknown cognitive mechanism that energizes life."

So, now that he is gone, what is Kevorkian's legacy? He assisted the suicides of 130 or so people and lethally injected at least two by his own admission (his first and his last); as a consequence of the latter, he served nearly ten years in prison for murder. But I think his more important place in contemporary history was as a dark mirror that reflected how powerful the avoidance of suffering has become as a driving force in society, and indeed, how that excuse seems to justify nearly any excess.

Thus, while the media continually described him as the "retired" doctor who helped "the terminally ill" to commit suicide, at least 70 percent of his assisted suicides were not dying, and five weren't ill at all according to their autopsies. It. Didn't. Matter. Kevorkian advocated tying assisted suicide in with organ harvesting, and even stripped the kidneys from the body of one of his cases, offering them at a press conference, "first come, first served." It. Didn't. Matter. And as noted above, he wanted to engage in ghoulish experiments. It. Didn't. Matter. He was fawned over by the media (*Time* invited him as an honored guest to its 75th anniversary gala, and he had carte blanche on *60 Minutes*), enjoyed high opinion polls, and after his release from prison was transformed by sheer revisionism into an eccentric Muppet. He was even played by Al Pacino in an HBO hagiography.

Kevorkian was disturbingly prophetic. He called for the creation of euthanasia clinics where people could go who didn't want to live anymore. They now exist in Switzerland and were recently overwhelmingly supported by the voters of Zurich in an initiative intended to stop what is called "suicide tourism." Belgian doctors have now explicitly tied euthanasia and organ harvesting. In the U.S., mobile suicide clinics run by Final Exit Network zealots continue unabated despite two prosecutions, as voters in two states legalized Kevorkianism as a medical treatment.

Time will tell whether Kevorkian will be remembered merely as a kook who captured the temporary zeitgeist of the times, or whether he was a harbinger of a society that, in the words of Canadian journalist Andrew Coyne, "believes in nothing [and] can offer no argument even against death."

APPENDIX E

[Joe Carter is web editor of *First Things* and the co-author of *How to Argue Like Jesus: Learning Persuasion from History's Greatest Communicator*. The following "Wednesday" column appeared on the magazine's website (www.firstthings.com) on April 13, 2011, and is reprinted with permission.]

Abortion and the Negation of Love

Joe Carter

Those of us in the pro-life movement often claim that we live in a "culture of death." But most of us don't believe it. Not really. We may use the phrase as a rhetorical tool, but deep in our hearts we think that our family, friends, and neighbors wouldn't knowingly kill another human being.

We convince ourselves that they simply don't realize what they're doing. If only they could see—and honestly look at—the ultrasound pictures of an unborn child. If only we could convince them that what they consider a "clump of cells" is a person. If only they knew it was a human life they were destroying. If they only *knew*, they wouldn't—they couldn't—continue to support abortion. But they do know. And the abortions continue. Not because we live in a *culture of death* but because we live in a *culture of me*.

The recent debate over defunding Planned Parenthood reminded me of a 2003 article in *Glamour* magazine about a group of abortion clinics that called themselves the November Gang. The clinics would encourage women to express their feelings about their abortions by writing them down on a pink, heart-shaped sheet of paper:

- "Women: This is your life and your body. What you think is right . . . is! No matter what anyone else has to say about it. Look around you . . . many people sat in that same chair. Be strong. And if you think this is a "sin," remember, God forgives!"
- "For my little angel: Although I say goodbye to you today, you will always be in my mind, heart, and soul. Please understand that this wasn't your time because you are better off in the hands of God than mine at this moment. My own creation, you are and forever will be beautiful and pure. I smile when I think of you, even if I cry. You have given me reason to be strong and wise and responsible. You will always be my baby. I will see you in heaven, sweetheart. I LOVE YOU! Always and unconditionally, Your Mommy."
- "I didn't let your dad know about you, simply because I'm ashamed. In my heart I will miss you but physically I don't have the means to take care of you and your older sister. I will never label you a mistake, because God obviously thought you should have been here, even though I beg to differ."

Notice that all three examples mention God. God forgives. The baby is better off with God. However, the last one best sums up this attitude behind the Culture of Me: God thought you should be born, but *I beg to differ*.

Unfortunately, the repercussions aren't as easy to dismiss as God's will. Claire Keyes, the executive director of Allegheny County Reproductive Health Center, shared some of the questions women asked her before going through the procedure:

“First and foremost, the question is ‘Will I ever be free of guilt?’” Keyes says. “That’s followed by ‘Will I ever go to hell?’ ‘Will God take one of my other children from me?’ ‘What gives me the right to decide which of my children lives and which dies?’”

Keyes, who at the time had been with the abortion industry for 25 years, said she didn’t know how to answer (nor do the answers seem to matter to her). But in the late 1980s she had an epiphany:

“We in the movement, those of us in the clinics at the beginning, were so caught up in the early euphoria about winning a right to an abortion, we weren’t listening to what the patients were saying. They weren’t talking about abortion in the same way we were. They weren’t talking about the constitution or women’s rights. And many of them weren’t talking about a bunch of cells, either. They might call it ‘my baby,’ even though they were firm about going through with the procedure. Many of them expressed relief, but many also talked about sadness and loss. And we weren’t paying attention.”

Note that when she says “we weren’t paying attention” she isn’t referring to the fact that there may be something immoral about helping women kill what they would refer to as “my baby.” No, what Keyes said the movement wasn’t paying attention to was the fact that women were having painful feelings about what they were doing.

Pangs of conscience are, of course, a natural reaction to the taking of an innocent life. But while the Culture of Me can accept an unborn child being ripped from the womb, having hurt feelings about such actions is unacceptable.

The end of the *Glamour* article closes with a feature called, “Women tell the true story of my abortion.” Unsurprisingly, the women represented are more concerned about their own anguish than they are regretful about their decision to kill another human:

- “I don’t want this to affect the rest of my life.” — Carla, 23
- “There’s a great quote from the essayist Katha Pollitt that comforts me. She said, ‘A woman has about 30 years of potential fertile sex. That’s a long time to go without a slipup.’” — Lisa, 32
- “When I finally confessed my abortion—after 25 years—I dreaded what kind of penance the priest would give me. He said, ‘I want you to say one Our Father and one Hail Mary. Then I want you to go home and make a list of the good things you’ve also done in all those years. Until you see the past wasn’t all bad, you can’t move into the future.’ I did, and it made all the difference in the world.” — Frances, 45
- “There was never a doubt in my mind about [having the abortion]. . . I was financially, emotionally, and psychologically incapable of dealing with motherhood, not to mention that I smoked a pack a day and my idea of breakfast was a KitKat.” — Donna, 38

But the most revealing confession came from thirty-five-year-old Micaela:

“This may sound strange, but I felt I knew the being I was carrying. I felt he was my son. I even called him Ernesto. And Ernesto was my reminder that my life was significant

APPENDIX E

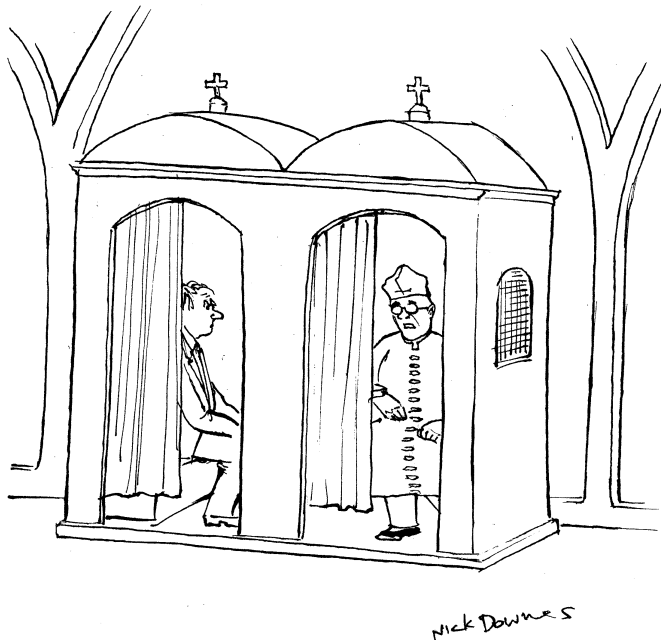
and that having an abortion was putting my life first. I know it was really about me, about promising myself that now I get to be super thoughtful about my life, super intentional—and that’s what the last five years since the abortion have been about.”

While rereading these quotes I was reminded of the words of Josef Pieper. In his book *Faith, Hope, Love*, the Thomist philosopher examines the various meanings and connections between the concepts we use to describe “love.” What, he asks, is the “recurrent identity underlying the countless forms of love?”

My tentative answer to this question runs as follows: In every conceivable case love signifies much the same as approval. This is first of all to be taken in the literal sense of the word’s root: loving someone or something means finding him or its probes, the Latin word for ‘good.’ It is a way of turning to him or it and saying, “It’s good that you exist; it’s good that you are in the world!”

The opposite of love is the frame of mind that declares, “It’s good that you *not* exist; it’s good that you are *not* in the world!” No matter what words they chose to scribble on a pink paper heart, this was the true message being spoken to the lost unborn children.

These women were informed that abortion was a reasonable choice. What no one told them was that what they were choosing was the negation of love.



“Too much information.”

APPENDIX F

[*Michael J. New is an assistant professor of political science at the University of Alabama and a fellow at the Witherspoon Institute in Princeton, N.J. The following blog was posted on National Review Online (www.nationalreview.com) on June 30, 2011, and is reprinted with permission.*]

Tracking the *Times* on Fetal Pain

Michael J. New

This Sunday, the *New York Times* ran a hostile article about pro-life efforts to enact fetal-pain laws. Because of the gains that Republicans made in the state legislatures during the 2010 midterm elections, pro-lifers have gone on the offensive. A number of states have eliminated state funding for Planned Parenthood and enacted legislation requiring women to view an ultrasound before submitting to an abortion. However, the most popular piece of pro-life legislation has been fetal-pain laws. Thus far, six states—Nebraska, Idaho, Indiana, Kansas, Oklahoma, and Alabama—have enacted these laws, which protect unborn children after 20 weeks, when there is medical evidence that the unborn can feel pain.

These fetal-pain laws are good pro-life strategy for two reasons. First, like partial-birth abortion in the 1990s, it is politically difficult for pro-choicers to support abortion at a late stage in pregnancy, especially when unborn children can actually feel pain. Secondly, they can provide another legal justification to protect the unborn. Supreme Court jurisprudence has only allowed states to protect the unborn after viability. Of course, since these viability protections must also contain a broad health exemption, they are very weak. However, if fetal-pain laws receive constitutional protection, that would create another legal avenue to defend the unborn, which might lead to greater legal protections in the future.

Of course, the *New York Times* argues that the consensus of the medical community is that the unborn cannot feel pain at 20 weeks. They take great pains to portray this debate as one between academic researchers and know-nothing pro-life activists. Of course, they fail to mention that one of the doctors they cite, Dr. David Grimes, is a practicing abortionist who won an award from the National Abortion Federation in 1987. Furthermore, *The Chronicle of Higher Education* ran a useful article on Tuesday citing a number of prominent neonatal and pediatric researchers, none of whom are involved with the pro-life movement, who argue that the unborn can feel pain at 20 weeks.

The *Times* also presents the difficult story of a Nebraska couple, Danielle and Rob Deaver. During a wanted pregnancy Danielle Deaver learned that the lung and limb development of her child had stopped and it had a remote chance of being born alive. Mrs. Deaver wanted to induce labor early to minimize the chance of infection. However, doctors felt that this would be in violation of Nebraska's fetal-pain law. We do not know all the details of the Deaver's tragic situation. However, the *Times* conspicuously fails to mention that these laws do contain exceptions for life and health of the mother. Furthermore, one maternal fetal medical specialist

who reviewed the situation questions the decisions made by the physicians. He also feels that an abortion that late in pregnancy would have been against Nebraska law, regardless of whether the Pain-Capable Unborn Child Protection Act had been in effect.

As the pro-life movement gains momentum, abortion-rights supporters are suddenly talking a much better game than they are playing. In the *Times* article, Nancy Northup of the Center for Reproductive Rights called these “20 week laws blatantly unconstitutional.” Similarly, Caitlin Borgmann, a law professor at City University of New York School of Law feels these laws are “clearly unconstitutional.” However, even though six states have signed these fetal-pain bills into law, none of them has faced a legal challenge. Northup says they will wait until the timing and circumstances are right. However, supporters of legal abortion are probably wise to proceed cautiously. Justice Kennedy’s opinion in *Gonzalez v. Carhart*, which upheld the federal partial-birth-abortion ban, has led many to believe he might find constitutional additional legal protections for the unborn. As such, pro-lifers would do well to continue to seize the initiative.

APPENDIX G

[Matthew Hennessey lives in New Canaan, CT, where he writes a column about faith and family for his diocesan newspaper, Fairfield County Catholic. His writing has also appeared in The Irish Echo and Catholic New York. He blogs at www.ninetydeuce.com. The following "On the Square" column ran on the website of First Things (www.firstthings.com) on May 23, 2011, and is reprinted with permission.]

Down Syndrome and the Texas Sonogram Law

Matthew Hennessey

I hate to do it, but I have to mess with Texas.

Hailed as a victory by many in the pro-life movement, the so-called "sonogram law," passed recently by the Texas Legislature and now awaiting Governor Rick Perry's signature, requires women seeking an abortion in the Lone Star State to view a sonogram image and listen to a description of the "dimensions of the embryo or fetus, the presence of cardiac activity, and the presence of external members and internal organs." I am the father of three small children and a seasoned veteran of the ultrasound routine. Those grainy images can be a powerful reminder of the essential humanity of the rapidly developing "embryo or fetus" displayed on the screen.

Unfortunately, however, the Texas law reinforces what I consider a morally repellent notion—that pregnant women carrying a fetus with a diagnosed genetic condition are victims. The law does this by exempting minors, rape victims, and those whose fetuses have an "irreversible medical condition or abnormality" from the counseling it requires.

Few would disagree that a woman who has been raped is a victim. There is a well-rehearsed—if controversial—argument that such women shouldn't be subjected to a description of little baby fingers and little baby toes. The rationale for exempting minors is less clear to me, but it would be far too easy to get carried away by a discussion of parental notification and consent laws, and I don't want to lose sight of the exemption that is most troubling: the exemption for an "abnormal" fetus.

So much of the abortion debate proceeds from the assumption that abortion-seeking women are motivated primarily by the impact they think that a baby will have on their lives. But what if a large number of women were seeking abortions not because the timing wasn't right, or because they didn't think they could afford it, or because of a relationship problem with the baby's father, but because the child itself wasn't right?

It is estimated that 90 percent of pregnancies diagnosed with Down syndrome end in abortion. What is the material difference between a woman in Texas who aborts her baby because it has Down syndrome and a woman in India who aborts her baby because it's a girl? Both are acting out of a desire to make life as easy as possible and escape being "victimized" by an undesirable baby. Yet the Texas woman is thought to be exercising her rights, and the Indian woman is thought by many to be committing what some have called "gendercide."

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My daughter has Down syndrome, a genetic abnormality caused by the presence of a third copy, instead of the normal two, of the 21st chromosome. Down syndrome is one of the most common genetic abnormalities that are present at birth. It is, in the cold parlance of the Texas law, irreversible. According to the March of Dimes, the other most common genetic birth defects are heart defects, cleft lip, cleft palate, and spina bifida. All of these, to a greater or lesser degree, are treatable conditions. Some congenital heart defects can be fatal, but most can be ameliorated through surgery or medication. In the case of spina bifida, scientists are awaiting the results of a clinical trial to assess the safety of a prenatal surgical technique to repair an affected fetus's exposed spinal cord.

So while many of the most commonly diagnosed prenatal genetic abnormalities are sometimes or always reversible, Down syndrome never is, making it the condition most likely to trigger the sonogram law's genetic exemption. To be fair, Down syndrome is typically first detected when physical abnormalities are observed during a routine sonogram. So, the abortion-seeking Texas woman claiming exemption for genetic reasons will almost certainly already have had at least one sonogram, perhaps more.

Nevertheless, the simple fact is that the new law strives to make it as easy as possible for a woman seeking to abort a fetus with Down syndrome to do so. By implication, it supports the twin views that no one should have to bring an imperfect child into the world and that every woman who has received a pre-natal diagnosis of Down syndrome should have guilt-free access to abortion on demand.

This doesn't sit well with me. As any parent will tell you, there is no such thing as the perfect child. All children, disabled or not, say terrible things, make poor decisions, break legs, drop out of college, get sick, get into cars with people who've been drinking, and date the wrong people. Some of us even end up living with our parents well into our twenties. We are, in many ways, defined by our imperfections. Only a society completely unmoored from its moral foundations would allow human imperfection to become a pretext for extermination. Yet that is just what this law countenances.

I imagine that more than a few pregnant women will rethink their abortion plans after seeing a sonogram and hearing their baby's heartbeat. In so much as I think abortion is bad, I rejoice in the innumerable doomed lives that could be spared. But in so much as I don't think having a child with Down syndrome turns a woman into a victim, I can only muster two weak cheers for the Texas sonogram law.

APPENDIX H

[David Mills, Deputy Editor of First Things, writes a weekly “On the Square” article for the magazine’s website (www.firstthings.com). The following appeared on November 8, 2010, and is reprinted with permission.]

Death Dignified by Christ

David Mills

He was a dignified man suffering all the embarrassing ways cheerful young women the age of his granddaughter deal with the body’s failure as cancer begins shutting down the organs. Dying in a hospice, you lose all rights to modesty as you lose control of your body.

Few men could have found the indignities of those last few weeks more excruciating than did my father. But this was what dying of cancer is like, and my father, being the man he was, took it like a man. It was the hand he’d been dealt, and he was going to play it, as bad as it was.

Though he died five years ago, in bookstores I still find myself starting to buy a book I know he’ll like, and thinking as I start to pull it off the shelf, “No, wait,” or deciding to ask his opinion on a matter great and small, and thinking as I reach for my phone, “No, wait.” The world has a hole in it and not one that will ever be filled in this life. On this octave of the feast of All Saints, I wanted to say something about what he taught me about dying.

It is a great blessing to be with your father as he dies, though mercifully a blessing you will only enjoy once. I was sitting in his room at the hospice, my wife and children having run round the corner to get lunch, my mother having lunch with an old friend round another corner. He had, as far as we knew, weeks to live. Listening to his labored breathing, suddenly I knew, I don’t know how, that he was breathing his last. I knelt by his head and said “Goodbye, dad.” He drew in a shorter, shallower breath than the others, and then stopped. The nurse came in, listened for a heartbeat, and I stood hoping I was wrong, that I’d missed something, till she shook her head.

At least, it is a great blessing to be with your father if he died the way mine did. He didn’t die with dignity, as those who promote “death with dignity” define it, which means, in essence, to die as if you weren’t dying.

It is not dignified to be dressed by cheerful young women the age of your granddaughter. It is not dignified to waste away, to lose the ability to speak, to eat, to drink. It is not dignified for your children and grandchildren to see you that way. It is not dignified to die when death takes you and not when you choose. I see the appeal of “death with dignity” and programs like those offered in Oregon and the Netherlands, where doctors will help you leave this world at the moment of your choosing, without fuss or bother or pain. I do not want to die and I really do not want to die the way my father did. I would find the indignities as excruciating as he did, and I have no confidence I would deal with the pain as bravely as he. I would not want my children to see me so pathetic.

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“Death with dignity” offers not only an escape from pain and humiliation, but a rational and apparently noble way to leave this life. All it requires is that you declare yourself God. Make yourself the lord of life and death, and you can do what you want. All you have to do, as a last, definitive act, is to do what you’ve been doing all your life, every time you sin: declare yourself, on the matter at hand, the final authority, the last judge, the one vote that counts.

But you are not God, and, the Christian believes, the decision of when to leave this life is not one he has delegated to you. To put it bluntly, he expects you to suffer if you are given suffering and to put up with indignities if you are given indignities. The Lord gives, and the Lord takes away; blessed be the name of the Lord. And that, as far as dying goes, is that.

This is not, from a worldly point of view, a comforting or comfortable teaching. It is one much easier for Christians to observe in theory than in practice. In practice, we will want to die “with dignity.”

This is what my father taught me: to die with dignity means to accept what God has given you and deal with it till the end. It means to play the hand God has dealt you, no matter how bad a hand it is, without folding. It means actually to live as if the Lord gives, and the Lord takes away, and in either case blessed be the name of the Lord.

It’s dignity of a different sort than the corruptingly euphemistic slogan “death with dignity” suggests. There is a great—eternal—dignity in accepting whatever indignities you have to suffer to remain faithful to God and to do what he has given you to do. A man can be humiliated and yet noble, and the humiliations make the nobility all the more obvious. My father died with dignity, though the advocates of euthanasia and the clean, quick, controlled exit might not think so. It’s what Jesus did: dying with dignity, in obedience to his Father suffering all the pain and humiliation this world could give. That is something to remember, after celebrating the feasts of All Saints and All Souls, of those who have gone before us, if we want some day ourselves to be among the faithful departed.

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