



VOLUME XLVI No. 2 ♦ SPRING 2020

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Wesley J. Smith • Peter Pavia • John Grondelski

Appendices: "Restoring Medicine and Medical Ethics" by Timothy Goeglein and Craig Osten

"Coronavirus Exposes Fixations on the Wrong Priorities" by Maria McFadden Maffucci

The issue you hold is the first—and we hope only—of its kind: assembled and edited during a massive international pandemic and quarantine. As you will see, some of the articles were written before the crisis, and some during. I hope and pray that we can soon say “after,” but as we go to press, uncertainty about the future reigns.

Issues of life and death are front and center. On the one hand, citizens are staying home, and suffering grave economic consequences, in an effort to protect the vulnerable. On the other hand, while elective surgeries have been put on hold, including needed biopsies and cancer treatments, abortion services in most states have been declared “essential”; abortion mills continue to reap bloody revenue from the bodies of the most vulnerable.

The pro-life movement, already greatly divided over politics and strategy, is showing troubling new fractures, as I describe in Appendix B. And yet we are strong in the powerful convictions we do hold in common, and in our support for the work of pro-life pregnancy centers, which are stepping up their efforts to safely assist clients in a climate of increased pressure to abort.

We welcome two new authors in this issue’s timely and vibrant mix of articles, columns and book reviews. The Honorable Robert G. Marshall served in the Virginia House of delegates for 26 years and wrote that state’s ban on partial-birth abortion. He is co-author, with Charles “Chuck” Donovan of the important book, *Blessed are the Barren: the Social Policy of Planned Parenthood*, chapter two of which we reprinted in our Winter, 1992 issue. We welcome his original article, “Abortion, Women, and Public Health: Getting the Whole Truth,” on p. 10. Peter Pavia is a writer based in New York City who debuts here with a devastatingly apt review of Abigail Shrier’s book, *Irreversible Damage: The Transgender Craze Seducing Our Daughters*.

Thanks go to Timothy S. Goeglein and Craig Osten for permission to reprint the chapter “Restoring Medicine and Medical Ethics” from their recently published (by Regnery Gateway) book, *American Restoration: How Faith, Family, and Personal Sacrifice Can Heal Our Nation*. And where would we be without the relief of laughter, and for that we thank our beloved cartoonist, Nick Downes—his contributions never fail to lift our spirits.

Finally, as you can see from our *From the Website* collection, our compelling online content has continued uninterrupted during this time of “together, apart,” and we plan to increase our offerings, so please visit www.humanlifereview.com often. And, if you are picking up an issue of the *Human Life Review* for the first time, welcome, and let us know what you think! We’d love to hear from you. See our inside back cover for contact information.

MARIA MCFADDEN MAFFUCCI
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INTRODUCTION

“I write as the coronavirus continues to set back hopes and expectations from throughout the human-relations department of life,” announces senior editor William Murchison at the outset of our lead article. As do I. It is a weird and disorienting time—custom and habit and expectation halted by nationwide governors’ directives to stay home until further notice. “We don’t know all we often think we know,” Murchison observes. “And it shows.” Yes, it does. Millions around the world are “sheltering” from a sudden storm of “unknown unknowns.” We are fortunate here that publishing has long had a foothold in cyberspace, and that our staff, working on laptops in five different households, were able to bring this issue together on deadline.

In “*June Medical Services v. Russo*: Another Lesson in the Long Reach of *Roe*,” Murchison uses a recent Supreme Court case to gauge the toll of nearly half a century of abortion jurisprudence on American culture. “The great rethinkings that seem inevitable following the expiration or subsiding of the pestilence and its consequences,” he advises, “really should take into account the greatest oddity I know of in our affairs . . . that we have turned over our moral deliberations to the federal judiciary.” Even if not by design, our jurists now maintain a social stranglehold on the body politic. “Don’t we see? Can’t we see?” Murchison asks. “Our court system isn’t into philosophy. Or morality. Or religion. Or popular consent. We’re into *Roe v. Wade*.”

And how did this enduring judicial virus enter the body politic? Through a campaign of deception that predates the Supreme Court decision itself. “Even before *Roe*,” writes Robert Marshall in “Abortion, Women, and Public Health: Getting the Whole Truth,” “keeping women uninformed was a major goal of abortionists.” Mr. Marshall, who served in the Virginia General Assembly for 26 years (during which time he had a hand in writing much of that state’s abortion-limiting legislation), knows of what he speaks. The Court’s abortion decisions “were based on critical omissions in public health data reporting,” he contends. “Lies, incomplete information, and what we nowadays would call ‘fake news’ have been hallmarks of the determined effort in the sixties and early seventies to achieve abortion on demand and in the continuous efforts to preserve it.” In addition, the CDC, the government agency charged with preserving the nation’s health, “has shown little or no interest in collecting accurate and up-to-date abortion death and complication data, since such data might have undermined its ‘abortion is safe’ message.”

How does a government agency like the CDC choose not to gather facts rather than disseminate statistics unsupportive of Planned Parenthood’s untruths? In “Stealth Threats from the Administrative State,” Edward Mechmann, an attorney for the Archdiocese of New York, points to the burgeoning power of non-elected officials who, tasked with implementing congressional legislation, effectively interpret laws to suit their own ideological dispositions. “In modern times,” he writes, “a tremendous amount of law-making authority has been delegated by legislatures to administrative agencies;

in fact, the courts have granted them so much discretion that the basic structure of our government has dramatically changed.” A prime example is the contraceptive mandate promulgated by the U.S. Department of Health and Human Services, which has led to years of litigation and the ongoing persecution of the Little Sisters of the Poor. “Religious and pro-life organizations,” Mechmann warns, “must recognize that they are directly in the firing line of the Administrative State.”

Is there a bridge too far in the State’s war to suppress religion? In “On Suicide and the Church: ‘Her Death Was Doubtful,’” Brian Caulfield asks whether there can be such a thing as “priestly malpractice.” No, he is not referring to criminal behavior in the ongoing priest sexual abuse scandal; the question he examines here is whether a cleric might be held liable for clumsily preaching the faith. Caulfield considers a recently filed lawsuit in Detroit, in which a mother is suing a priest, his parish, and the archdiocese for \$25,000 in damages, claiming the funeral homily addressing her son’s suicide caused pain and suffering to the family, who had wished to keep the manner of their child’s death private. The civil suit doesn’t challenge Church teaching on suicide but rather the right of the priest to have discussed it, especially after parental distress became clear. Both the priest and the archbishop issued public statements apologizing for failing to bring comfort to the grieving family, which, Caulfield speculates, “may open a path for the plaintiff to plead that the rites performed did not conform to the practice or doctrine of the Church.” Oh, boy.

Does religion, specifically Christianity, still have standing in the public square? And if not, can a winning case against abortion be mounted there without it? George McKenna, professor emeritus of political science at the City College of New York, says “more power to anyone who can devise a convincing secular pro-life argument.” But he is “sticking with Jesus.” In “You Don’t Have to Be a Christian to Be Against Abortion (But It Helps),” McKenna, who has authored some of the most important articles this journal has published in the last 25 years, goes to the heart of the challenge facing proliferators in a post-Christian culture. “Belief in the dignity of every human being,” he writes, “is the source of human rights—rights not granted by society but given by God.” This is, he continues, “a specifically Christian doctrine, derived from the teachings of Jesus.” Science-based arguments, advanced by pro-life believers and pro-life atheists alike, can establish the unborn’s identity as a human being. But, McKenna argues, they are “not so much wrong but irrelevant” to, for example, a “prochoice atheist who [responds] ‘I don’t care about your facts. If a mother chooses to consider her fetus disposable, that’s it.’”

Is the right to a disposable child, heralded by radical feminists as necessary for the true emancipation of women, un-American? While that is not a question Edward Short set out to answer in “The Non-Feminist Abigail Adams,” his engaging essay might suggest one. Short’s mission is to liberate a founding mother from abortion-minded admirers who would appropriate her as a sister. “The historical Abigail Adams,” he writes, “has been pushed aside to make way for an anachronistic Abigail Adams designed expressly to endorse and promote the feminist cause.” A literary scholar, Short quotes extensively from Abigail Adams’ letters, “which for insight, verve, charm, and perspicacity rival those of Madame de Sévigné,” and leave no doubt that the attempt by

feminist writers and educators to “enlist her as their champion flouts the real woman’s real convictions.” With characteristic elan, Short concludes: “No one as philoprogenitive as Abigail Adams, or as Christian, would ever have seen abortion as anything other than flagitious.”

Are you reaching for the dictionary? I had to. Flagitious: “marked by scandalous crime or vice.” As Maria Maffucci points out in our final article, “The Good Mother,” those who would recast Abigail Adams to suit their flagitious philosophies are simultaneously busy—in Hollywood as well as in academe—“‘reframing abortion’ as good mothering.” The recent declaration by a well-known actress that she would not be accepting a Golden Globe award if not for “a woman’s right to choose” moved the *Review*’s editor-in-chief to pen an extraordinary essay exposing the historically ignorant and downright creepy behavior of today’s abortion-culture warriors, who seek “to reduce motherhood to merely one of several ‘reproductive choices.’” It is a goal, Maffucci shows us, that “would be laughable were it not so dangerous.” In a heartfelt Postscript, she notes that she too is writing from home, “during a time, we might say, when the whole world is called to have the attributes of good mothers.”

* * * * *

Like most of these articles, the reviews in Booknotes were written before any of us heard of the coronavirus—and remind us of issues that were on our minds back then. Wesley J. Smith, a frequent contributor, says we urgently need the “dispassionate scholarly analysis” promised by the title of Bianca Easterly’s *The Chronic Silence of Political Parties in End of Life Policy Making in the United States*, but she “failed to write that book.” On the other hand, Peter Pavia, a new contributor, calls Abigail Shrier’s *Irreversible Damage: The Transgender Craze Seducing our Daughters* “a brave and truth-filled book.” And John Grondelski, a frequent reviewer, “most highly recommends” *Abortion Under State Constitutions: A State-by-State Analysis* (Third Edition) by Paul Benjamin Linton.

Focus on the Family’s Timothy Goeglein and collaborator Craig Osten published a book last summer whose message is even more urgent today. “American Restoration,” wrote conservative pundit Ben Shapiro at the time, is “a prescient reminder that the Judeo-Christian morals upon which the nation was based remain the most solid foundation for our shining city on the hill—and that only a re-engagement with those moral foundations will allow us to build to new heights.” In Appendix A we reprint chapter three, “Restoring Medicine and Medical Ethics,” a timely introduction for younger readers—and perhaps some older ones—to the late Dr. Edmund Pellegrino, “a founding father of modern bioethics” and a pillar of the pro-life movement. This issue closes with a recent *Newsmax* column (Appendix B) by our editor in chief, “Coronavirus Exposes Fixations on the Wrong Priorities.” Let us hope that we emerge from this weird and disorienting time—admirably chronicled in our From the Website feature—with renewed respect for the right ones.

ANNE CONLON
EDITOR

June Medical Services v. Russo:

Another Lesson in the Long Reach of *Roe*

William Murchison

The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal.

—Abraham Lincoln, First Inaugural Address, 1861

Abortion Decision: Waiting on the Court

—Catholic News Agency, Headline, 2020

The more it stays the same, the more it scares the bejabbers out of such souls as relish the idea of the United States as a land of human freedom governed by common undertakings intimately related to the rule of law.

Speaking of scares and frights and such like . . . I write as the coronavirus continues to set back hopes and expectations from throughout the human-relations department of life: seemingly fixed; resistant (like the rollerball pens I favor) to explosions or leaks “due to a change in cabin pressure during flights.” We don’t know all we often think we know. And it shows.

The great rethinkings that seem inevitable following the expiration or the subduing of the pestilence and its consequences really should take into account the greatest oddity I know of in our affairs. It is the one I remark above. It is that we have turned over our moral deliberations to the federal judiciary.

We have said to the judges: Here, you decide. You tell us.

Tell us what? Who deserves to live? Yes, and also who probably isn’t worth worrying about in terms of life prospects. Whose existence (to put it another way) isn’t a moral matter: rather, a political one. A crisis in our democratic arrangements goes forward—and we seem at present not even to be aware of the fact.

“Waiting on the Court”—what a sad summing-up of that which Americans allow as the modern reality in questions of how we protect, or fail to protect, human life.

The present wait—we should get down to literal cases—concerns the case of *June Medical Services v. Russo*, argued in early March 2020 and doubtless decided for us already in a conference of the nine justices. The great wait will end

William Murchison writes from Dallas for Creators Syndicate and is a senior editor of the *Human Life Review*. He is currently working on *Moral Disarmament*, a book examining the consequences of our moral disagreements. *The Cost of Liberty*, his biography of John Dickinson, an influential but neglected Founding Father of the United States, was published in 2013 by ISI Books.

at some point in late June, before the Court begins its summer break. We'll learn at that point what morality—what constitutional morality—there may be in a Louisiana statute requiring abortion doctors to enjoy admission privileges at a hospital within 30 miles of their theater of operations: just in case something goes wrong. June Medical Services, the business, not the case, sees no point in such a requirement, arguing that abortion these days hardly ever involves danger to the woman.

Danger to the unborn child—ah, that's different. In *Roe v. Wade* the Supreme Court declared the child exempt from such worries: too young, too much a part of the mother's body to have achieved the kind of standing June Medical Center asserts in its battle with the State of Louisiana.

"My right, my decision," read many of the placards displayed outside the Supreme Court building while in the courtroom lawyers for Louisiana and the June clinic butted heads. You would certainly have to call that assertion a blunt assertion. "My decision"? Yes? Unpack that one for us. Your decision based on . . . what, exactly? On what evidence, intellectual or otherwise? An evolved philosophical contention at odds with older philosophical contentions? Or religious ones? Which? And why?

In response, from the clinic and its well-wishers, comes the cry: *No, no, no, no, no, no, no!*

Don't we see? Can't we see? Our court system isn't into philosophy. Or morality. Or religion. Or popular consent. We're into *Roe v. Wade*. *Roe* is all we know on earth and all we need to know. All consideration of unborn-life questions must take place within the context and framework of that 46-year-old judicial landmark.

We understand the pith of this argument from the furor at the June hearing, much of it occasioned by the appearance of the minority leader of the U.S. Senate, Charles Schumer, addressing pro-choice demonstrators. Schumer gave it out that philosophy wasn't on his mind. "They're taking away fundamental rights," he cried.

He went on: "I want to tell you, Gorsuch; I want to tell you, Kavanaugh"—note the lack of professional title in this address to the justices; a measure either of familiarity or contempt—"you have released the whirlwind, and you will pay the price. You won't know what hit you if you go forward with these awful decisions."

I thought instantly of John Steuart Curry's famous image of a wild-eyed, open-mouthed John Brown of Kansas, with tornado swirling behind him. If such was Schumer's inspiration, he fell a bit short: earning, rather than immortality, general derision and a rebuke from Chief Justice John Roberts. He ended up apologizing, sort of. Nevertheless, he made clear that no argument with *Roe v. Wade* is to be permitted, intellectually or politically. There would be reprisals for perpetrators,

such as Supreme Court justices willing to approve escape clauses from *Roe*. “You will pay the price”—whatever threat Schumer intended to convey, such words certainly qualified it as a warning, an alarm, of major consequence. The dignity and prestige of the country’s highest court were not going to stand in the Senate minority leader’s way. He and others would take action. Was that clear?

Too clear for comfort. Clear enough, at the same time, for some urgent reflection on the trap that *Roe* has set for us by overruling moral deliberation—as happened a century and a half ago, with lamentable consequences.

Abraham Lincoln’s Inaugural address conveyed more than his moral dislike of *Dred Scott v. Sandford*—whereby the Supreme Court upheld the indefeasibility of slave ownership, once undertaken. His remarks conveyed the practical effects on democracy and the people’s constitutional sovereignty whenever the Supreme Court might assume definitive authority over “vital questions affecting the whole people.” Such a question, it seems fair to assert, is the human life question.

No moral question ever rests outside the political realm, but lawmakers and judges have a profound obligation to be exquisitely careful when dabbling in the deep questions of life. When it comes to abortion, they’ve been the reverse of careful.

I used to read more comparisons than I do now between *Roe* and *Dred Scott*, based on the arrogance inherent in both—the pretense of settling a moral question on purely legal/constitutional terms. The comparison is well-founded, and I wish it would come up more often than it does.

Dred Scott was a slave who had lived on “free soil,” as the common term had it, between 1834 and 1838—a circumstance that Scott contended, in suing for his freedom before the Missouri courts in 1846, had rendered him a free man. At length, given the importance of his contention, Scott’s case reached the U.S. Supreme Court. The matter was terribly complex, due not least to the question of whether Scott enjoyed the right of resort to the federal courts. The upshot: hard luck for *Dred Scott*. A slave he had been; a slave he remained. Who said so? The Supreme Court said so, by a vote of 6 to 3. Six to three: It might have been 5 to 4, depending on the disposition of yet another judge. And if 5 to 4 against *Dred Scott* was possible, why not, by another switch or reversal, 5 to 4 *in favor of Scott*? The possibility was more than technical; a single justice’s change of heart could have brought it about . . . the disposition of a single justice’s stomach, or the flutter of his pulse . . . a brief re-read, re-pondered, re-thought . . .

Moral cases, as we understand, are complicated. In them you often find two approximately equal sides from a moral standpoint. Such is life, in our fallen human estate. But to repeat myself: Deciding yea or nay in these matters requires exquisite caution. The reversal of *Dred Scott* required the deaths of

700,000 Americans, on the battlefield and off it, and the economic as well as physical spoliation of an entire American region, the South.

The parallels between *Roe* and *Dred Scott*, if inexact, are suggestive: not least in their common denominator, that being human life.

To picture the federal courts in their maintenance of the *Roe* precedent is to imagine, with some effort at artistry, a row of black-robed intellectuals, their arms folded, their faces set like flint, the glint of their eyes conveying a united truth: We have spoken. So let it be written, so let it be done: as the writers of Cecil B. DeMille's *The Ten Commandments* required the Pharaoh Seti to declare on more than one technicolor occasion. Here's how it is.

But are you sure? That when it comes to abortion we cover and re-cover the same constitutional ground, year after year—the same arguments and counter-arguments, only the faces changing—seems to argue, to put it mildly, that we're not sure at all. Not by any manner or means. Defenders of *Roe* are sure; critics of *Roe* are sure. But certainty of the sort we see poured into the ears of nine justices, year after year, by advocates and editorial writers, is far from the ultimate certainty for which the nation seemingly hungers.

I do not wish to overstate. The larger and more populous a unit of political relationship may be, the lower and scantier our chances of getting everybody on the proverbial same page. (Shhhh!—sometimes I can't convince my own wife of the reasonableness, if not indeed the perfection, of my viewpoints.) To put the matter in folklore fashion: Some like it hot; some like it cold; some like it in the pot nine days old. In striving for agreement, we do what we can: maybe separate bowls of porridge, heated to different temperatures. Maybe friendly wincing as the less-desired temperature passes down our gullets.

To appropriate Lincoln's generality, meant to apply to a large specificity, when policy meant for a whole people is "irrevocably fixed" by court decision, you've got problems. The people have resigned their government into the hands of the justices, who will tell us—as they suppose—what we're supposed to think.

In *Roe v. Wade*, the Court majority brought off a judicial coup. The Court, as people in my part of the Southland used to say, was going to tell us how the cow ate the cabbage. With a substantial chunk of us obliged to sit by tamely, saying, "Oh! How nice! We hadn't thought of it that way! Now we know!"

Instead, as we know, cries of indignation rose from that substantial, and growing, chunk of the populace. Laws and resolutions were passed. The Court might rule, the Court might direct; but that didn't oblige murmurs of "Oh, thank you, my lords" from those with minds and hearts keyed to an understanding of unborn life as infinitely valuable—hence of our obligation to treat such life with due respect.

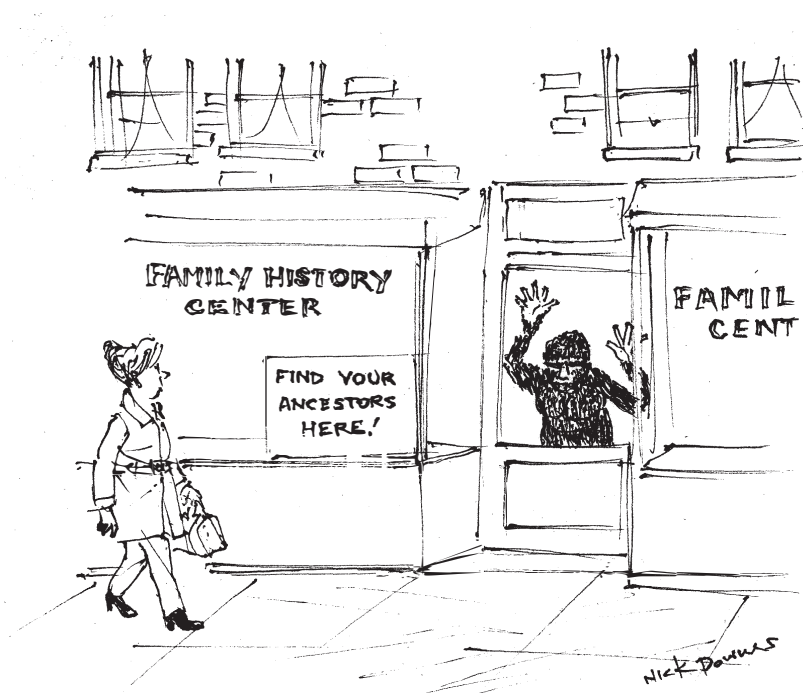
State law, prior to *Roe v. Wade*, set out in detail the public's understanding of

abortion and its implications. That understanding massively favored continuation of a pregnancy. At least until, in the 1960s, public sentiment began moving in the direction of support for a woman's right to continue or end her pregnancy.

Democratic theory called for letting the matter play out: seeing what might be made of these conflicting desires. Any state legislature was capable of changing the law in accordance with voter sentiment. Ah, no—the Supreme Court wrested that power, that right, from legislators. Here's what we're doing now, kiddies, said the Court majority. So let it be written! So let it be done!

And it *was* written. But not done: not in the complete, autocratic, shut-up-and-take-your-medicine mode contemplated by the Court. Because here we go again: from *Roe v. Wade* to *June Medical Services v. Russo*. And on beyond that, without question, without doubt, without delay. Mr. Lincoln saw it coming. He saw the horrors that succeeded his warning. He saw democracy tear itself in two. Oh, thank you, the learned justices again would have us murmur. Thank you so kindly, my lords!

Believers in the sacredness of unborn life and in government of the people, by the people, for the people are excused on this sad and unnecessary occasion from class attendance.



Abortion, Women, and Public Health:

Getting the Whole Truth

Robert G. Marshall

The 1973 *Roe v. Wade* and *Doe v. Bolton* decisions legalizing abortion nationwide were based on faulty information and critical omissions in public health data reporting. In this they were emblematic of mendacity and deceit by pro-abortionists both in the years leading up to the 1973 decisions and in the decades following. Lies, incomplete information, and what we nowadays would call “fake news” have been hallmarks of the determined effort in the sixties and early seventies to achieve abortion on demand and in the continuing efforts to preserve it.

Remarkably, the majority opinion in *Roe* recognized the American Medical Association’s efforts in the mid-19th century to make abortionists subject to criminal penalties from conception on. In that era, the AMA had affirmed the “independent and actual existence of the child before birth, as a living being,” the denial of which was based “upon mistaken and exploded medical dogmas.”¹ However, in 1973 the *Roe* and *Doe* Court embraced the fiction that 19th-century state anti-abortion laws were passed solely to protect women from dangerous surgery, and not to protect the lives of unborn children. Working from this false presumption, the *Roe* decision cited the U.S. Public Health Service (USPHS) and Planned Parenthood advisor Christopher Tietze, M.D., who claimed that “Mortality rates for women undergoing early abortions, where the procedure is legal, appear to be as low as or lower than the rates for normal childbirth. . . .”² The apparent line of reasoning of the decision seems to be: 19th-century AMA-supported laws against abortion were motivated purely by the danger of surgical abortion to women; such danger no longer exists; hence, abortion can now safely be legalized. Interestingly, exposing this blatant fallacy might be used to help undo *Roe* and *Doe*.

Abortion Promoted by Biased Sources

Even before *Roe*, back in the early 1960s, keeping women uninformed was a major goal of abortionists. For example, Dr. Tietze suggested in 1964 that if persons had moral concerns about the abortifacient action of the intrauterine device (IUD), which prevents implantation of a fertilized egg in the uterus,

Robert G. Marshall was first elected in 1991 to the Virginia General Assembly, won 13 general elections, and served there for 26 years. He is the author of *Reclaiming the Republic: How Christians and Other Conservatives Can Win Back America* as well as numerous articles in newspapers and scholarly publications. He wrote the state’s ban on partial-birth abortion and other amendments to protect the unborn in Virginia and nationwide. (Email him at robertgbobmarshall@gmail.com.)

then it would be wise not to “disturb those people for whom this is a question of major importance” by alerting them to that reality. He suggested redefining the beginning of human life to satisfy such tender consciences: “If a medical consensus develops and is maintained that pregnancy, and therefore life, begins at implantation [which occurs several days after conception], eventually our brethren from the other faculties will listen.”³

Tietze’s willingness to deceive fellow physicians, lawyers, clergy, and persons who had no moral objection to preventing a pregnancy, but who did have serious moral reservations about ending one, was a triumph of Machiavellian cynicism and expert chauvinism. Nine years later, Justice Harry Blackmun, the author of the *Roe* and *Doe* abortion decisions, cited three of Tietze’s studies among the sources for his assertions about abortion safety. Since the Court failed to conduct an adversarial process and amass an evidentiary record, as Clark Forsythe has pointed out, the results of Blackmun’s data shopping stood uncontested in his *Roe* and *Doe* decisions.⁴

Dr. Tietze’s advice was hardly a lone example of a willingness by those connected with the USPHS to bend or conceal the facts in safeguarding abortion from interference or restraint. The Centers for Disease Control and Prevention (CDC), a branch of the USPHS founded in 1946 as the Communicable Disease Center, has historically (and to this day) provided less-than-complete abortion complication reports. For nearly a decade in the 1980s, the chief of the CDC’s Abortion Surveillance Branch was Dr. David Grimes, who has been an abortionist for over 40 years. Among those assisting Grimes was Judith Rooks Bourne, the head of Georgia Citizens for Hospital Abortions, which worked to expand Georgia’s abortion laws. In 1970, Bourne worked for the CDC in the Family Planning Evaluation Division, which conducted research later used for the abortion safety claims in the *Doe v. Bolton* case that, along with *Roe*, legalized abortion in all 50 states.⁵ Her then-husband, Peter Bourne, was second plaintiff on the lawsuit right after Mary Doe; Judith herself was also a plaintiff.⁶

In the years since abortion was legalized, the CDC leadership has shown little or no interest in collecting accurate and up-to-date abortion death and complication data, since such data might have undermined its “abortion is safe” message. Instead, the CDC devised procedures and policies that gave the appearance of collecting relevant abortion data, but were designed to whitewash data on abortion morbidity and mortality.

Refusal to Collect Data

From the 1970s to 1988, most states followed CDC guidance in collecting abortion complication information. During those years, the USPHS instructions for filling out the *U.S. Standard Report of Induced Termination of Pregnancy* form provided: “If no complications have occurred at the time the report is

completed, check ‘none’. . . . *This item will provide data regarding the risk of induced termination* [emphasis in original].”⁷

Often, abortionists are unaware of complications while the woman is on the operating table or in the recovery room, so few if any immediate complications would be identified, thus making abortion appear to be “safe.” Indeed, Washington State Public Health authorities acknowledge that, “The reporting of abortion complications is considered to be incomplete because follow-up care may be administered after abortion reports are filed, or by a second facility or physician.”⁸

With somewhat surprising frankness, Willard Cates, M.D., the “first permanent Chief of the Abortion Surveillance Branch at the CDC,” shed light on abortion reporting omissions in Liz Jeffries and Rick Edmonds’ famed article “The Dreaded Complication.”⁹ Jeffries and Edmonds pointed out that live birth abortions “are little known because organized medicine, from fear of public clamor and legal action, treats them more as an embarrassment to be hushed up than a problem to be solved.” They quoted Cates as explaining, “It’s like turning yourself in to the IRS for an audit. . . . What is there to gain? The tendency is not to report because there are only negative incentives.”¹⁰

It’s not surprising, then, that women whose complications are not immediately diagnosed can fall through the cracks statistically. For example, a common abortion-related complication is retained products of conception,¹¹ yet this complication might not be noticed until days or weeks after a woman’s abortion is performed. In addition, complications of chemical abortions (that is, abortions induced by pill) are also likely to be underreported. In 2013 and 2015, Planned Parenthood researchers published two studies purporting to show that chemical abortions performed by Planned Parenthood are safe.¹² However, the studies counted only women who returned to Planned Parenthood facilities for treatment, neglecting as many as 15 percent of the patients who were lost to follow-up in the 2015 study; they also noted a loss to follow-up of up to 46 percent of patients in other studies. Not surprisingly, then, the complication rates identified by Planned Parenthood abortion facilities were significantly lower than complication rates reported by large, comprehensive studies of abortion complications, suggesting that complications identified and reported by abortion providers may be artificially low.¹³

In the U.S., abortion reporting is handled at the state level. States decide which data points, if any, they will require abortion providers to report to the state health department. These data are voluntarily shared with the CDC in aggregate, using a template that the CDC provides. In recent years, three states—California, Maryland, and New Hampshire—have elected not to participate in the CDC’s voluntary system.¹⁴

Since 1988, the CDC has no longer requested complication data from states

on its standard abortion reporting form. The January 1988 revised *Handbook on the Reporting of Induced Termination of Pregnancy* from the U.S. Department of Health and Human Services omits from its abortion reporting form any mention of reporting complications. Instead, the form seeks information on how the abortion was performed, but provides no checkboxes for complications.¹⁵

If a woman who has undergone an abortion later ends up at a hospital emergency room, or even back at the original abortionist for an abortion-related problem, the chances of any complication report making its way to the state health department, let alone the CDC, are slim. Only a minority of states require health facilities and professionals to report abortion-related complications they encounter, and of these, some have experienced difficulties in publicizing and enforcing their reporting requirements. The Virginia Department of Health, Center for Health Statistics, told me on October 19, 1990, that Virginia would no longer collect abortion complication data “due to a lack of complete reporting.”¹⁶

Indeed, the complication information was deleted from the CDC reporting form because it was so incomplete that it was useless. Federal health officials noted, “Underreporting was the major problem with this item because most complications are not evident until a day or two after the procedure, after the report has been filed.”¹⁷ Of course, the USPHS could have moved to correct the collection and reporting of this data, rather than deciding to omit it from the national reporting form on which most states relied for amassing important information.

And if the “dreaded complication”¹⁸ of a live birth occurs during an abortion, no abortion forms are to be completed. The U.S. Department of Health and Human Services specified in its 1998 reporting handbook:

Although unlikely, the induced abortion procedure may result in a live birth. Should this occur, the report of induced termination of pregnancy is not to be completed and filed. Rather, a certificate of live birth is to be prepared for the infant. In the event the infant should later die, a death certificate would also have to be prepared and filed.¹⁹

In such a case, any complication data that might be collected would be ascribed to the aftermath of a live birth, not an abortion.

There are other anomalies in the government’s recordkeeping of abortion. Question 35 on the CDC’s current *U.S. Standard Certificate of Live Birth (2003)* asks for the number of “previous live births” for the woman delivering a baby. Question 36 asks for the “Number of Other Pregnancy Outcomes.” But instead of requiring such pregnancy outcomes to be separately recorded and counted, all three “other pregnancy outcomes”—“spontaneous or induced losses or ectopic pregnancies”—are to be recorded in the same box.²⁰ This data collecting scheme makes it impossible for the birth certificate to be used as a paper trail to link a prior induced abortion to future negative pregnancy outcomes such as

prematurity, low birth weight, etc. The resulting knowledge gap has kept, and continues to keep, women ignorant and injured, while facilitating the falsehood that abortion is as safe as or even safer than childbirth.

Question 30 on the *U.S. Standard Report of Fetal Death* likewise asks physicians to list previous pregnancy outcomes other than live birth. But again, “spontaneous or induced losses or ectopic pregnancies” are to be listed in the same box, making it impossible to separately analyze induced abortion’s negative consequences for future “wanted” pregnancies on any other related health forms.²¹

“Redefining” Deaths from Abortion-linked Ectopic Pregnancy

Another gap in abortion-related health data opened in the early 1980s with the CDC’s handling of deaths associated with ectopic pregnancy. Earlier, the CDC’s 1981 reporting policy stipulated, if “deliberate action was taken to terminate a real or suspected pregnancy and to produce a non-viable fetus,” and this was done “at any time during the pregnancy,” then “if [the mother’s] death occurs it is abortion related.”²² However, in May 1983, the CDC explained its new approach in an analysis of past maternal deaths from ectopic pregnancy: “Between 1972 and 1980, 19 deaths from ectopic pregnancy occurred soon after an attempted legally induced abortion. In the 1978 abortion surveillance report, we considered such deaths abortion-related and included them in a separate subcategory of legally induced abortion. In 1979, the CDC began the independent surveillance of ectopic pregnancy-related mortality and published its first ectopic pregnancy surveillance report in 1982. In this abortion surveillance report, therefore, we exclude all deaths associated with ectopic pregnancies.”²³ From this point on, when a woman died of an ectopic (tubal) pregnancy after an attempted abortion, the CDC deftly redefined such deaths as not related to abortion.

Without any sense of irony, this dismissal of deaths from an abortion of a woman with an ectopic pregnancy was placed right after the CDC’s definition of “Abortion-related death: A death that resulted from a direct complication of an abortion, an indirect complication caused by the chain of events initiated by the abortion, or aggravation of a preexisting condition by the physiologic or psychological effects of the abortion.”²⁴ What a convenient way to remove the link between deaths from ectopic pregnancy after induced abortion: simply no longer report ectopic pregnancy after an attempted abortion!

Undercounts of Immediate Abortion Complications

One simple way to test the accuracy of complications reporting would be to seek information directly from hospital emergency rooms and compare it to abortion clinic reporting in the states.

To test the robustness of the CDC's abortion data collection methods in Virginia, in 1989 a public health professor from George Washington University and I wrote to 1,087 Virginia physicians (non-abortionists) asking if they had treated any CDC-sought complications primarily within 24 hours of an abortion occurring in that year. The immediate complications we asked them to report to us were the same ones requested by the CDC: hemorrhage, infection, uterine perforation, cervical laceration, retained products, and a few others. We used the identical form Virginia had used in 1988.

We received responses from 75 doctors (7 percent of physicians mailed) reporting 230 immediate abortion complications for 33,200 abortions reported in 1989. In 1988, Virginia health officials, presumably speaking for nearly all abortion facilities in the state, reported only 34 immediate complications for 33,600 abortions. Despite the low response rate, our survey collected over 650 percent more abortion complications than were reported to Virginia the previous year for roughly the same number of abortions, almost 200 more than were reported by the abortionists to the CDC or the state. The complications we collected broke down as follows: Hemorrhage - 46; Infection - 114; Uterine Perforation - 1; Cervical Laceration - 1; Retained Products - 52; Other (plus combinations) - 16.

None of these complications would have been reported to the Commonwealth of Virginia. A slight majority (127) were reported more than 24 hours after the abortion. Further, had we asked doctors to report the known range of complications other than immediate ones previously sought by the CDC, we suspect that even more complications would have been reported.

One emergency room physician wrote to us:

These clinics provide no backup for complications. They often tell a patient via a recording to "Go to an emergency room." The emergency physician attempts to contact the abortion clinic to determine which M.D. is on call for their complications. No one is ever on call or available. The other scenario we see is the patient who comes to the emergency department with an abortion complication during daytime hours. The clinic that performed the abortion is open. But (the patient) has no money. And now since they "have no money" [they] go to the hospital emergency department.²⁵

Of course, doctors' reporting is limited by what the patient chooses to share. The rise of chemical abortion in the United States—a more dangerous method than surgical abortion²⁶—has coincided with an increase in attempts to make this form of abortion more accessible to women, outside of legal frameworks if need be. Websites illegally sell abortion pills online, and abortion advocates advise women on how to induce their own abortions and consequently on how to deceive health care providers if the abortion turns out to be less safe than promised.²⁷ "If a woman seeks medical attention, she does not have to say she used medicines," one website assures visitors. "She can say she is having a mis-

carriage. The symptoms and treatment of a complication of miscarriage is [sic] exactly the same as treatment for abortion.”²⁸

Virginia Medicaid Costs—Women Who Abort vs. Live Birth

In 1995, as a member of Virginia’s General Assembly, I asked state Medicaid officials to compare the cost of medical care for 325 women who had aborted their children to the costs for 325 women who gave birth to their children, matched for age, race, and program eligibility.

For the period from 1989-94, according to the officials, “The women with legally induced abortions had 532 claims for subsequent health interventions. The women with normal deliveries had 307 claims . . . for subsequent health interventions. . . . reimbursements for . . . women with abortions was \$123,800 and for . . . women with normal deliveries was \$66,900.”²⁹

In 1997, I asked Virginia’s Medicaid agency to contrast medical interventions, including mental health services and treatment for “accidents,” for 122 women whose first pregnancy ended in induced abortion with 122 women whose first pregnancy ended in a live birth, with similar matching criteria and the same time period. In each area of comparison, it cost Virginia more to treat women who had aborted their children than those who had delivered their children.³⁰

Subsequent Medical Interventions	# Events	# Women	Cost
122 Women who Aborted	100	37	\$16,158
122 Women with Live Birth	60	23	\$8,197

Mental Health Treatment	# Events	# Women	Cost
122 Women who Aborted	248	22	\$18,171
122 Women with Live Birth	153	12	\$12,709

Treatment for Accidents	# Events	# Women	Cost
122 Women who Aborted	226	48	\$8,543
122 Women with Live Birth	201	54	\$5,590

One death occurred in the abortion group; none occurred in the delivery group. Accidents were coded based on reports for eligible Medicaid reimbursements.

When I attempted to obtain similar data in 2005 from then-Governor Mark Warner’s Administration regarding abortion complications, I was told by the Director of Virginia’s Department of Medical Assistance Services, “The information you requested is not available without the Department having to commit a significant amount of staff time and resources.”³¹ My previous requests, which were made

during Governor George Allen's tenure, were answered without hesitation.

Polls Underreport Abortion

Trying to contrast medical outcomes from induced abortions with those from live births is complicated by the fact that for almost 30 years polls or surveys of women, whether in the United States or overseas, have underreported induced abortions by 51.5 percent to 61.5 percent.³² Thus, complications that should have been attributed to a prior abortion would most likely be attributed instead to live births. Because of the design of the *U.S. Standard Certificate of Live Birth* and the complete absence of abortion records accurately linked to women who later deliver their children in a "wanted" pregnancy, any complication of the ostensibly non-aborting woman who delivers a child will be attributed to childbirth, and not to abortion.

Planned Parenthood has long been one of the chief beneficiaries of (and contributors to) the misinformation about the health risks to the mother of abortion. Understandably, then, the organization wants that blindness to continue. That is why they sued Idaho recently to prevent the collection of detailed abortion complication data under a new law requiring complications and deaths to be reported both by abortionists and non-abortion doctors.³³

The Supreme Court affirmed the constitutionality of such record-keeping requirements in 1976 and 1992 in cases involving Planned Parenthood. In *Planned Parenthood of Central Missouri v. Danforth* (1976), the Supreme Court ruled that: "Recordkeeping and reporting requirements that are reasonably directed to the preservation of maternal health and that properly respect a patient's confidentiality and privacy are permissible."³⁴

And in 1992 in *Planned Parenthood v. Casey*, the Supreme Court reaffirmed its 1976 ruling: "We think . . . all the provisions at issue here except that relating to spousal notice are constitutional . . . they do relate to health. The collection of information with respect to actual patients is a vital element of medical research. . . . it cannot be said that the requirements serve no purpose other than to make abortions more difficult."³⁵

In addition, the Idaho law is consistent with the National Institutes of Medicine's early recommendation for necessary abortion research in the areas of "physical, mental, emotional and social outcomes of the procedure."³⁶ To the abortion industry, apparently, even a little knowledge is a dangerous thing.

Action Items

The alleged safety of legal abortion has long been touted by its proponents. If official data showed that abortion was *not* safe for women (we already know it kills children), then that could be among the grounds for reversing *Roe* and *Doe*.

- Congress has direct authority over Washington, D.C. As such, Congress

can direct in the annual Appropriations bill for the District of Columbia that an abortion reporting system be devised for the nation's capital to require the collection of abortion deaths and complications (immediate, under 30 days, and beyond 30 days). The provision should also require that doctors in the District who treat abortion complications fill out and file reports on complications, irrespective of whether they performed the abortion, prescribed abortion drugs for the woman, or simply treated the complication.

- States need to pass abortion complication data reporting laws consistent with recommendations made by public health bodies to avoid technical, medical criticism. Such statutes must include the mandatory reporting of complications discovered by medical personnel who did not perform the abortions. A drawback is that such a statute will have to be litigated all the way to the U.S. Supreme Court given that abortionists have an interest in maintaining the fiction that legal abortion does not harm women and that they desire to prevent the public from learning the truth.

Once that claim that abortion is safe for women is undermined, the lives of children before birth will be easier to protect. Would it not be ironic if *Roe's* faulty abortion safety premises could be used to undermine and reverse *Roe's* lethal effects?

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Stealth Threats from the Administrative State

Edward T. Mechmann

In recent years, there has been a well-documented increase in the number and intensity of conflicts on hot-button issues like abortion, gay rights, and gender identity, and in how seriously they impact religious liberty. “Progressive” advocates on those issues have made it clear that they see religious liberty as a primary impediment to accomplishing their goals. They believe that religious liberty should always lose when there is a conflict.

Most of the attention on these conflicts has centered on legislatures and courts, especially the Supreme Court. The long and complex litigation over the HHS contraception mandate and the contentious *Masterpiece Cakes* case are the most prominent recent cases. Those cases ended well for religious liberty, but they represent a disturbing trend, since both began with hostile actions by the Administrative State.

What Is “the Administrative State”?

In our civics classes, we learned that there are three branches of government—judicial, legislative, and executive. Article One of the United States Constitution grants “All legislative Powers” exclusively to Congress. Article Two requires that the President “take Care that the Laws be faithfully executed.” Article Three declares that the power of the federal courts extends to “all Cases, in Law and Equity, arising under this Constitution [and] the Laws of the United States.” The existence of executive agencies is implicitly recognized in Article Two, but the Constitution does not spell out the scope of their activities.

In modern times, however, a tremendous amount of law-making authority has been delegated by legislatures to administrative agencies; in fact, the courts have granted them so much discretion that the basic structure of our government has dramatically changed. Although most of these agencies are ostensibly located within the executive branch, their permanent staff often operate as though they were an independent fourth branch.

The Administrative State acts in numerous ways.¹ Hundreds of significant formal rules are promulgated every year through a process called “notice and comment rule-making.” The agency publishes a proposed rule, receives public comments, and then promulgates the final rule. However, all the important policy decisions are often already made by the agency before giving public notice of

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the proposed rule, so the rest of the process is typically just artificial formalism. Yet these rules are just as binding as any act of Congress, even though no elected official has ever played a part in creating them.

And many of these regulations go far beyond the requirements of the original statutes they purport to implement. The HHS mandate shows the danger inherent in this process, since it was the creation of an agency interpretation of the term “preventive services” to include contraception and sterilization, based on a recommendation by a panel of medical consultants, even though no mention of those specific “services” appeared in the 2,000+ page Affordable Care Act.

Agencies also issue informal “Guidance” documents, “Opinion Letters” or “Bulletins.” These purport to be mere interpretations of the agency’s rules. But they often go far beyond that and are widely seen, as Justice Kagan once described them, as “essentially an end run around the notice and comment provisions.”² Although they technically aren’t legally binding, people and organizations that are being regulated conform to the amount of fear of enforcement actions or legal liability. The result is that they are *de facto* laws, enacted through the back door. The best-known examples are two infamous “Dear Colleague” letters from the Obama Administration Education Department, one of which imposed gender ideology on public schools and mandated how college sexual misconduct cases would be handled.³

Agencies often have secret internal interpretations of their rules that they don’t disclose to the public but apply on a case-by-case basis. You only find out about them when you ask about them or inadvertently run afoul of them. This is the stealth threat *par excellence*, as demonstrated in the discussion of a stealth abortion mandate below.

Agencies also have almost unlimited discretion about when and against whom to enforce their rules. They can act based on informal Guidance or Opinion Letters, or even in their secret internal interpretations. This creates an impossible tri-lemma for a conscientious objector—(a) ignore the rule and hope you won’t be noticed, (b) challenge the rule in an expensive and uphill legal battle, or (c) just surrender your rights and comply.

There’s also the problem of agencies declining to enforce laws for ideological reasons or selectively enforcing laws against particularly disfavored targets. An egregious case of this occurred in the *Masterpiece Cakeshop* litigation, where a Christian-owned bakery was specifically targeted for declining to create a wedding cake for a same-sex ceremony.⁴ The Supreme Court found great significance in the Commission’s failure to enforce the non-discrimination laws against bakers who declined to sell cakes with religious messages. And in a classic example of ideological non-enforcement, the Obama Administration refused to enforce the Weldon Amendment (which barred discrimination against institutions that declined to be involved in abortion), even though it was blatantly violated by a

California law requiring all employers to pay for abortions in their insurance plans.⁵

The result of these various actions and inactions is that individuals and institutions are finding that many of the important decisions in our nation are being made by the Administrative State, and their lives are being affected in ways they never expected. All of these interactions between the public and the Administrative State create vulnerable points at which life and religious liberty can be threatened.

The King's Prerogative Resurrected

The architecture of American government—the famous “separation of powers” and “checks and balances”—was designed as a rejection of the King’s prerogative, which gave him unlimited power. The entire genius of the American constitutional system is to limit the authority of government and to ensure that the government cannot exercise unaccountable authority; instead, everyone receives “due process of laws.”

However, with the expansion of the Administrative State, the King’s prerogative has made a stealthy comeback, causing particular problems for religious liberty.⁶

Thanks to the U.S. Supreme Court, there is virtually no protection available under the Free Exercise Clause of the federal Constitution. In their infamous 1990 decision in *Employment Division v. Smith*,⁷ the Court held that if a law is neutral on its face and generally applicable, an exemption must not be given to people or institutions whose religious beliefs are violated. That leaves very little, if any, recourse for someone aggrieved by a regulation.

Similarly, the New York State Constitution is also of no help, due to the Court of Appeals’ 2006 decision in *Catholic Charities v. Serio*,⁸ which rejected a religious liberty challenge to a contraception mandate. That decision bizarrely put the burden of proof on the religious claimant to show that a law is an “unreasonable burden” on his or her beliefs. This is an absurdly low standard that is used for no other constitutional right and provides very little protection for such a fundamental freedom.

The federal Religious Freedom Restoration Act (RFRA)⁹ provides some help to religious claimants, but only if they challenge a federal law. Many states have their own version of RFRA, but New York State is not one of them. Even if we had one, there is no guarantee that it would provide relief. It is worth recalling that, in the lower court decisions on the HHS mandate, the religious litigants generally lost, even though they had RFRA on their side.

Legal challenges to the Administrative State are ultimately rigged against the aggrieved party. Religious litigants typically have to appeal to the agency itself or answer a complaint before an administrative law judge—who just happens

to work for the agency. So the first “judge” that a religious claimant faces is hardly neutral, and the agency’s own policies will control in the proceedings. This doubly stacks the deck against the religious litigants. If they get an adverse ruling from that “judge,” they have to appeal to the agency head—yes, the same agency that’s prosecuting them. If they try to obtain relief from a real court, they are faced with a heavy lift, because the courts give great deference to the agency’s interpretation of its statutes and regulations and to the decisions of the agency’s quasi-judicial adjudication system.

All of this protects the Administrative State from accountability and unfairly tips the scales against those who challenge it.

How This Plays Out—The Case of the Stealth Abortion Mandate

To illustrate how stealth threats from the Administrative State can play out in reality, consider the story of an actual case under litigation.¹⁰

In 2015, the Department of Financial Security of New York State, which has regulatory oversight of the insurance industry, issued “model language” for small employer health insurance policies that would require coverage of elective abortions. Prior to that date, there was absolutely no statutory or regulatory authority for any such mandate. In fact, the State Legislature had failed to enact an abortion insurance mandate for close to twenty years, but that did not stop the Department from issuing this “model language.”

It is crucial to note that the term “model language” is a misnomer. It implies that the language is optional, but in reality, it is nothing of the sort. Every health insurance plan must be acceptable to the Department. It is obviously much easier, cheaper, faster, and less risky for companies to get approval by just using the model language. As a result, the insurance companies treat the model language as *de facto* mandatory—it is an “offer they can’t refuse.”

When various religious organizations raised objections to this model language, they were ambushed by a stealth threat to religious liberty in one of its purest forms. The Department blithely informed the organizations that they had already been paying for abortion coverage for years, because the Department considered abortion to be “medically necessary surgery”—a standard anodyne provision of every contract. This secret private interpretation had never been made known before, even though the Department knew that the religious organizations would object. It was neither defined nor authorized in any regulation or statute. Yet religious organizations were subjected to it—surprise!

A lawsuit was then filed by the Catholic Dioceses of Albany and Ogdensburg, other Catholic and non-Catholic religious organizations, and several private parties. While the litigation was pending, the Department decided to put their position on a stronger footing, implicitly conceding that their prior efforts were improper. The Department formally proposed regulations that would explicitly

impose the abortion mandate—this time, not just on small employer policies, but on all health insurance policies. Again, there was no statutory authority for this—the Department just created it out of thin air.

Astonishingly, the Department has argued that the abortion mandate was always implicit in a regulation enacted in 1972 that required insurance plans to cover medically necessary treatments. Just consider the audacity of this argument. They are saying that an abortion insurance mandate was secretly enacted through an anodyne regulation, just two years after New York passed an abortion law that was one of the most controversial bills ever considered, in the midst of an ongoing battle in the Legislature to repeal the law and to overturn a veto of the repealer, while a serious constitutional challenge to the law was making its way to the state’s highest court, while everyone was anticipating the major Supreme Court decision that came the following year—yet nobody noticed or said anything for over 40 years! Such is the arrogance of the Administrative State, which believes it can retroactively amend laws through fictitious “implicit meanings.”

As of now, the lawsuit has been dismissed and is currently on appeal. (I have submitted an amicus brief on behalf of the New York State Catholic Conference.) The reality is that it is an uphill battle against the powerful Administrative State, with unsympathetic courts and legal standards stacked against us.

Other Examples of the Administrative State’s Threats

Although the stealth abortion mandate case illustrates some of the ways in which the Administrative State can threaten life and religious liberty, there are many other examples:

- There have been ongoing battles, most notably the California law that culminated in the *NIFLA v. Becerra*¹¹ decision by the Supreme Court, over discriminatory and burdensome signage and disclosure requirements for pregnancy care centers.
- State agencies have tried to force Christian adoption and foster care agencies to violate their religious beliefs and place children with same sex couples. Several cases, one from Pennsylvania¹² and another from upstate New York,¹³ are currently working their way through the federal courts, on their way to the Supreme Court.
- Although the ability of religious organizations to obtain government licenses and participate in government programs has been upheld by the Supreme Court, it is under constant attack. Advocacy groups are encouraging a strategy to use local governments to advance a pro-“LGBT” agenda.¹⁴ For example, the Maryland State Education Department recently excluded a Christian school from a voucher program because of their religious beliefs about sexuality and gender.¹⁵

- The independence of religious organizations is regularly threatened with state control. New York State education authorities have attempted to take control of religious school curricula under the guise of ensuring that the schools are providing the “substantial equivalent” of public school curricula.¹⁶
- Employment decisions are subject to state interference. New York State and New York City have enacted so-called “boss bills,” which ban discrimination on the basis of “reproductive health decisions.”¹⁷ The District of Columbia and the City of St. Louis have also passed “boss bills,” and over a dozen states have had bills introduced.¹⁸ A lawsuit has already been filed in New York to prevent the Administrative State from forcing pro-life organizations to employ pro-abortion advocates and to promote pro-abortion beliefs.¹⁹
- Agencies also take it upon themselves to extend the law far beyond what legislatures have specifically enacted. Years ago, the New York State Attorney General’s Office issued a private “opinion letter”—at the request of the New York Civil Liberties Union, a committed pro-abortion advocacy group—stating that some non-doctors could perform abortions, in direct conflict with the explicit language of the statute.²⁰ The New York City Commission on Human Rights has published a detailed Guidance based on a statute that bans discrimination on the basis of “gender identity”; the Guidance includes broad and vague definitions of as many as 38 “gender identities,” coerced speech (e.g., requiring the use of a person’s “preferred pronouns”), and ruinous fines of up to \$250,000 for a “willful” violation.²¹
- While the Trump Administration has issued regulations to vitalize the enforcement of federal statutes and regulations allowing health professionals and institutions to decline to participate in abortions, these regulations have been stymied by the courts, leaving conscience protection in limbo.²²

And as we can see from across the country, “blue states” like New York are becoming increasingly aggressive in pushing agendas that endanger life and religious liberty by way of the Administrative State. This trend will certainly accelerate on the federal level if a Democrat is elected president in 2020.

What Is to Be Done?

There are certainly many ways in which regulatory agencies contribute to the common good, and it is impossible to govern such a large and diverse nation without them. But the Administrative State, if left unchecked, will continue to pose a grave threat to life and religious liberty. Elections do matter, but even if friendly forces are elected, favorable officials are appointed, and agencies issue favorable rules or revoke damaging ones, the opposing side will eventually be elected and reverse them, or hostile courts will block them. Permanent

staff members of agencies are also not easily controlled by temporary political appointees. Political affiliation of government employees is well known to tilt heavily to the Left.

So what can we do? Religious and pro-life organizations must recognize that they are directly in the firing line of the Administrative State. Vigilance and activism are essential. We need lawyers who are knowledgeable in the workings of administrative law. We must be careful to scrutinize every official agency action, whether a regulation, enforcement action, or anything else. We must be wary of any informal actions, particularly Guidances, Opinion Letters, policy manuals, or bulletins that state how an agency will interpret their rules or statutes. We cannot afford to put our heads in the sand and wait for hostile enforcement actions. We must not be on the defensive but must be proactive.

This all means that we must be ready and willing to challenge agency actions whenever they threaten life or religious liberty. There are a number of pro-life and religious liberty legal centers that do this work, like Alliance Defending Freedom or Becket Fund for Religious Liberty. But we need to step up our game. The pro-abortion movement is able to instantly challenge any pro-life laws or regulations because they have abundant funding and personnel for the task. We need to emulate them in this respect.

Practically speaking, this means that we must devote real resources—time, money, and expertise—to our own proactive litigation and support other parties as *amici curiae*. We should form alliances with organizations like the Cato Institute and the Federalist Society, which are fighting to rein in the Administrative State by changing the way that rules are enacted and restoring authentic judicial review of agency actions. There are significant cases on this issue before the Supreme Court, and they will have a direct impact on us.

Yet, the fundamental first step is to be aware of the stealth threats to life and religious liberty from the Administrative State. We must be honest about what we are facing. The Administrative State is deeply embedded in the American system. There are powerful forces that will resist any attempt to tame it. This will be a long and hard struggle, with little or no respite. But this is where the action is for now and for the foreseeable future—and we must be proactive in fighting back.

NOTES

1. These are governed by the Administrative Procedure Act, 5 U.S.C. §§ 500 to 596. Every state has a similar law.
2. Transcript of Oral Argument at 14, *Perez v. Mortgage Bankers Association*, 135 S. Ct. 1199 (2015).
3. Both Guidances were rescinded by the Trump Administration. <https://www.ed.gov/news/press-releases/us-secretary-education-betsy-devos-issues-statement-new-title-ix-guidance> (transgender students) and <https://www.ed.gov/news/press-releases/department-education-issues-new-interim-guidance-campus-sexual-misconduct> (sexual misconduct cases).
4. *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 138 S. Ct. 1719 (2018).

5. Richard M. Doerflinger, *A Pledge Betrayed: The Obama Administration Nullifies Conscience Rights* (June 6, 2016), <https://www.thepublicdiscourse.com/2016/07/17295/>. The Weldon Amendment is a provision that is passed annually as part of the appropriations process.
6. For a general overview of the dangers of modern administrative practice, see, e.g., Adam J. White, *Reforming Administrative Law to Reflect Administrative Reality* (2017), https://nationalaffairs.com/storage/app/uploads/public/doclib/20170111_Booklet2_chap4.pdf.
7. 494 U.S. 872 (1990).
8. 7 NY 3d 510 (2006).
9. 42 U.S.C. §§ 2000bb to 2000bb-4.
10. *Roman Catholic Diocese of Albany, et al. v. Vullo, et al.*, No. 2070-16 (N.Y. Sup. Ct., Albany Co., Dec. 28, 2018), *appeal docketed*, No. 529350 (3rd Dept.).
11. 138 S. Ct. 2361 (2018).
12. *Fulton v. City of Philadelphia*, <https://www.becketlaw.org/case/sharonell-fulton-et-al-v-city-philadelphia/>.
13. *New Hope Family Services v. Poole*, <https://www.adflegal.org/detailspages/case-details/new-hope-family-services-v.-poole>.
14. See Center for American Progress, *Advancing LGBTQ Equality Through Local Executive Action* (2017), <https://www.americanprogress.org/issues/lgbtq-rights/reports/2017/08/25/437280/advancing-lgbtq-equality-local-executive-action/>.
15. *Bethel Ministries v. Salmon*, <https://www.adflegal.org/detailspages/case-details/bethel-ministries-v.-salmon>.
16. Peter Murphy, *Under Assault: New York's Private and Parochial Schools* (Sept. 5, 2019), <https://www.city-journal.org/new-york-substantially-equivalent-provision>.
17. The State law is codified as Labor Law § 203-e. The City law was enacted as Int. No. 863-A (Jan. 20, 2019).
18. National Women's Law Center, *States Take Action to Stop Discrimination Against Women For Their Reproductive Health Care Decisions* (Nov. 2019), https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2019/12/FS_BossBill.pdf.
19. *Compasscare v. Cuomo*, <https://www.adflegal.org/detailspages/case-details/compasscare-v.-cuomo>.
20. New York Civil Liberties Union, *NYCLU News*, Vol. LIX, No. 2 (Spring 2019), https://www.nyclu.org/sites/default/files/field_documents/nyclu_spring_newsletter_2019.pdf.
21. New York City Commission on Human Rights, *Gender Identity/Gender Expression: Legal Enforcement Guidance* (last updated Feb. 15, 2019), <https://www1.nyc.gov/site/cchr/law/legal-guidances-gender-identity-expression.page>.
22. Benjamin Weiser and Margot Sanger-Katz, *Judge Voids Trump-Backed "Conscience Rule" for Health Workers* (Nov. 6, 2019), <https://www.nytimes.com/2019/11/06/upshot/trump-conscience-rule-overturned.html>.

On Suicide and the Church:

“Her Death Was Doubtful”

Brian Caulfield

Lawsuits against the Catholic Church have become common in this era of horrible revelations of clerical sexual abuse. But a recent court filing stands out because it involves how the Church’s teaching on suicide was applied and preached during a funeral Mass, and how this was received by loved ones in the pews.

It’s a tragic and heart-rending story from any perspective, and one can see the mother’s point in taking action against a priest who mentioned in his homily that her teenage son had committed suicide, though she claims she and her husband did not tell him the cause of death and did not want it to be made public. The legal complaint also charges that the priest said suicide is “against God” and carries dire eternal consequences, and that he continued in this vein despite obvious objections, including the father having approached the pulpit. One can also see the point of the priest, who wished to affirm the Church’s objective teaching on suicide while allowing that there are always mitigating circumstances that could remove any guilt before God, who knows each person’s heart and is merciful. The mother is seeking \$25,000 in damages in the suit against the priest, Father Don LaCuesta, the parish, and the Archdiocese of Detroit, where the funeral Mass was offered in December 2018.

The archdiocese issued a statement days after the funeral which begins with an apology:

The Archdiocese of Detroit regrets that one of its parish priests was unable to bring comfort to a grieving family at the recent funeral of their beloved son. Our hope is always to bring comfort to situations of great pain, through funeral services centered on the love and healing power of Christ. Unfortunately, that did not happen in this case. We understand that an unbearable situation was made even more difficult, and we are sorry.

Father LaCuesta also made a formal statement to the parish, which read, in part: “As with any funeral, it was my intent to serve this family in their time of grief, but I fell well short of providing them the comfort they so desperately needed. Instead, I added to their pain. I deeply regret that, and I am sorry.”

The purpose of this article is not to analyze the homily or assess the lawsuit; these issues will be litigated in a Michigan court. Rather, I intend to look at some of the larger legal and social concerns raised by this case, with special attention to the First Amendment freedoms of religion and speech, and to review

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the teaching of the Catholic Church on the very difficult issue of suicide. In addition, as an example of the laity's discomfort over the way funerals are sometimes conducted, I will look at the graveyard scene in *Hamlet* after Ophelia's apparent suicide, from which the title of this article is taken.

Chapter and Verse

Let us first consult the *Catechism of the Catholic Church*, which lays out the teaching on suicide in four succinct sections, 2280-83. A careful reading reveals a delicate balance between calling the act of suicide wrong, and potentially scandalous under certain circumstances, while acknowledging mitigating factors and God's great mercy. If anyone is uncertain about redemption after suicide, the *Catechism* states, "We should not despair of the eternal salvation of persons who have taken their own lives. By ways known to him alone, God can provide the opportunity for salutary repentance. The Church prays for persons who have taken their own lives."

The implication of the final sentence is that it would be senseless to pray for someone who is condemned eternally to hell. Upholding the seriousness of the act of suicide, however, the *Catechism* also explains that it "contradicts the natural inclination of the human being to preserve and perpetuate his life. It is gravely contrary to the just love of self. It likewise offends love of neighbor because it unjustly breaks the ties of solidarity with family, nation, and other human societies to which we continue to have obligations. Suicide is contrary to love for the living God."

The teaching that suicide is an offense to love of neighbor in that it "unjustly" breaks legitimate human bonds recalls G.K. Chesterton's insight, "The man who kills a man, kills a man. The man who kills himself, kills all men. As far as he is concerned, he wipes out the world."

But as the *Catechism* teaches further, there are mitigating factors. "Grave psychological disturbances, anguish, or grave fear of hardship, suffering, or torture can diminish the responsibility of the one committing suicide."

Examples easily come to mind. Think of persons with crippling clinical depression that pulls body and mind into a dark, confusing space where reality seems an illusion and vice versa, and both appear threatening. Or the tortured, emaciated prisoner of war who has little hope of physical or mental daylight. Consider, as well, the tragic choices facing those trapped in the upper floors of the Twin Towers on 9-11 to understand why fear of pain and suffering would cause a person to jump to certain death rather than be consumed by approaching flames.

These real-life cases are not black and white and, to its credit, neither is the Church's teaching on suicide.

Teen Crisis

Our discussion is timely as it takes place in the context of a shockingly high rate of suicide among teenagers. According to a report published last year in the *Journal of the American Medical Association*, there were more than 6,000 reported suicides in the 15-19 age group in 2017, or 11.8 per 100,000 teens. In 2000 the rate was significantly lower, eight suicides per 100,000. The Centers for Disease Control reported in the fall of 2019 that suicide is the second leading cause of death for teens (behind accidents), and that the rate of suicide jumped 76 percent among those age 15-19 in the ten years ending in 2017, with a marked spike from 2014-17.

There are many explanations offered for this shocking rise: the lack of purpose and meaning in young people's lives; the decline of religious practice and the advent of the "nones" professing no faith; the rise of social media with its attendant boredom and cyber bullying; the prevalence of single-parent homes, particularly the absence of fathers; and the lack of structure and discipline in the lives of many children.

A simple online search of "teen suicide" returns a range of statistics and opinions, from scholarly studies in peer-reviewed journals to an article in the music magazine *Rolling Stone* titled "Teen Suicide Is on the Rise and No One Knows Why." Tellingly, the magazine cover that appears on the article page shows three half-naked female rappers strutting their stuff, though the author fails to make a possible connection between suicide and the distorted message pop culture sends teens on sex and a host of other issues. The October 2019 article, however, does mention an HBO series called *13 Reasons Why*, "which contributes to the glamorization of suicide" (say, what?), and reports that teen suicide rates "did experience a slight spike" following the release of the show. However, the article hastens to add, complaints from parents have nudged HBO to post a warning video and a list of mental health resources. This may seem small comfort to most parents—my two teen sons thankfully have never heard of the show—and the experts on teen behavior don't provide much insight either.

Teen suicide is such a personal, emotionally wrenching, and painful phenomenon—tied up with issues of parenting, home life, mental health, self-esteem, and feelings of loss, guilt, grief, and despair—that researchers have trouble making general statements about it. Most cite clinical depression as a greatly contributing factor, which is easy to see. When your thoughts, feelings, and relationships are dark or distorted, you are more likely to consider an irrational act such as taking your own life. But simply using the word "irrational" here may be seen by some as unfeeling or judgmental, which gives us an indication of why suicide is so difficult to talk about and study.

One of the most helpful statements I found on the Internet was from a health

group that had taken the time to talk to young people who had actually attempted to take their lives (and thankfully failed). The Kids Health section of the pediatric wellness site of Nemours reports that “Most teens interviewed after making a suicide attempt say that they did it because they were trying to escape from a situation that seemed impossible to deal with or to get relief from really bad thoughts or feelings . . . they didn’t want to die as much as they wanted to escape from what was going on. And at that particular moment dying seemed like the only way out.”

Indeed, research on adults who have gone through a failed suicide attempt shows that they rarely try again. According to Harvard’s School of Public Health, 90 percent of those who survived a suicide attempt do not die later of suicide. Seventy percent never try again, while 23 percent make a second failed attempt. Often suicide seems like the solution to an immediate problem, or the only escape from pain that seems unbearable at the time. Sometimes the very experience of a suicide attempt leads people to profound regret and extreme relief when it fails. They never again want to go through the awful act of seeking to die by their own hand.

Mid-Life Crisis

Of course, suicide is not only an issue for teens or even young adults. A spike in rates has also been seen in recent years among middle-age Americans, those between 45 and 64, who experienced a 45 percent rise from 1999 to 2016. Although suicide is associated most often with men, it is also on the rise among women, as underscored by the 2018 high-profile suicide of fashion mogul Kate Spade. Indeed, the suicide rates by sex tell a mixed story. Women attempt suicide more often, but men are more often successful, a differential that may be called indelicately the barrel vs. the bottle. Men generally have greater access and willingness to use a gun, whereas women more often turn to an overdose of prescription drugs and alcohol (although Spade was reported to have hanged herself with a scarf attached to a doorknob).

Experts are more willing to talk openly about the causes of suicide among adults than of those for teens. A CDC official identified “depths of despair” as a root cause of both suicide and the associated epidemic of drug overdose, particularly the opioid epidemic, which can be described as a slow form of suicide. The turndown of the economy following the 2008 recession, as well as the alienation of certain sectors of the middle class—especially in rural areas and rust belts—from the tech economy, are also driving factors, the official said.

A Novel Case

Returning to the lawsuit filed against the Detroit priest and archdiocese—it raises questions about what laypeople can and should expect when requesting

sacred services from the Catholic Church. Bringing such a complaint to the secular courts also touches on church-state relations and the application of First Amendment free-speech and religious-freedom rights. Can the State justly stand in judgment of a religious minister as he carries out duties prescribed by his church? Can a layperson seeking services such as a funeral Mass claim damages when not pleased with how they are performed, even if the priest and his superiors admit that the priest brought pain and suffering to those who should have been consoled? Is there such a thing as priestly malpractice?

These are the larger questions that make the Detroit case more than a disagreement between priest and parishioner.

Certainly, the clergy sexual-abuse crisis, which lamentably has dragged on for some 20 years, shows that sacred ministers and their churches are not immune to legal suits and heavy damages. The Catholic Church is estimated to have paid out more than \$1 billion to victims of abuse, and some priests who have not been accused of abuse themselves have been held liable in court for aiding or abetting abuse by another.

Such a long string of cases may make the Church and priests more susceptible to legal action and less sympathetic figures to judges and juries, but sexual-abuse lawsuits do not have a direct relation to the civil charges brought by the family of the Michigan teen. More to the point are cases involving employment contracts that bring into question Church teaching on marriage, abortion, and homosexuality. In these cases, the Catholic Church and other churches have successfully invoked the “ministerial exception” to general state and federal employment discrimination laws, which holds that a religious body must be able to define and decide who qualifies to speak and teach in its name, and therefore can remove an employee not deemed suitable in this regard without government interference.

Recent cases include a South Carolina teacher who was fired for posting pro-abortion messages on her Facebook page, where she was identified as a Catholic school teacher. She sued last year for wrongful termination on the basis of First Amendment free speech rights, but no decision has been published as yet.

In a Pennsylvania case, a Catholic school teacher who complained she felt like a character in *The Scarlet Letter* was fired after she announced she was pregnant and had no intention of marrying the child’s father. Earlier this year, a judge denied her petition to be reinstated to her job but allowed the discrimination suit to go forward. She does not deny signing a morality clause as part of her contract with the school but apparently contests the Church’s moral judgment.

The Supreme Court decision that deals most directly with these issues came in the 2012 *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission* case in which a teacher who had trained to become a “commissioned minister” sued after being fired from a Michigan

school that provided a “Christ-centered” education. With Chief Justice John Roberts writing the (unanimous) opinion, the Court ruled that the government could not meddle in the hiring or firing of ministers without infringing on First Amendment freedom-of-religion rights, since the teacher in question fell under the ministerial exception.

Strictly speaking, the lawsuit over the funeral homily does not exactly fit the wrongful termination model. After all, the parents of the departed teen were not employees of the Church nor was a contract signed concerning the proper way to conduct a funeral. Still, it would seem that the *Hosanna-Tabor* decision could be invoked to defend the right of the Church to employ its own minister to conduct its own rites. However, the fact that both the archdiocese and the priest issued public apologies may open a path for the plaintiff to plead that the rites performed did not conform to the practice or doctrine of the Church.

The case also has a local twist. Due to heinous protests at military funerals by members of the Kansas-based Westboro Baptist Church, Michigan passed a law against making statements at a funeral that could be construed as a “breach of peace.” The mother’s legal team may seek to have this law applied to the priest who, they say, breached the peace at the funeral Mass he was conducting.

It should be noted that Father LaCuesta has gained public support from fellow priests who have read a script of his homily and say he exercised perfect balance between stating Church teaching and providing comfort to the family. Also among the priest’s supporters is Edward Peters, author of the popular blog *In the Light of the Law*, who, as a canon law professor at Detroit’s Sacred Heart Major Seminary, is an employee of the archdiocese. In a blog post last year titled “God Bless Fr. LaCuesta,” his praise went beyond what even the archdiocese has claimed. Basing his assessment on the prepared text of the homily, Peters wrote:

I don’t see Hell mentioned anywhere, nor any language that relegates this poor young man thereto, and instead I see clarion reminders of the mercy of Christ recited at least half-a-dozen times. I see, too, the moral gravity of suicide—itsself approaching epidemic proportions among Americans today—directly acknowledged and fears about its eternal consequences candidly admitted, but I also see consoling references to how much more God knows about one’s life than do those even closest to him and how much that deeper, likely mitigating, divine knowledge leaves the rest of us mortals, grieving a suicide, room for real hope.

In a recent email exchange, Peters also told this writer that he has never heard of another case of someone suing a priest over the content of a homily.

Enter Shakespeare

It is certainly not unusual for laypeople to complain about the ways, words, or manners of the clergy. Who hasn’t rolled his eyes over the tone or content of

a sermon, or engaged in the parlor game of rating priests or ministers on their clerical or personal appeal? Literature and cinema over the years have been filled with positive and negative portrayals of clergymen—on the one side are those such as Mr. Dimmesdale, the adulterer of *The Scarlet Letter*; the sinful priest of *The Thorn Birds*; and the ambitious and morally ambiguous Monsignor played by Robert DeNiro in *True Confessions*. On the other side are Bernanos's heartfelt rendering of the French curé in *The Diary of a Country Priest*; Willa Cather's sympathetic treatment of the heroic prelate in *Death Comes for the Archbishop*; and Hollywood good-guy Bing Crosby playing heart-of-gold Father O'Malley in *Going My Way*.

But perhaps more relevant to the case under review here is a scene in *Hamlet* (Act V. scene i) in which the Doctor of Divinity (Priest) denies poor Ophelia the full funeral rites of the Church because he has judged her death a possible suicide. The graveyard scene weaves together themes of death, doubt, temporal goods, and eternal rewards, and with true Shakespearean genius, expresses both severity and levity. Angered that the priest has not given his sister the final funeral blessing, Laertes demands:

What ceremony else?

*Doctor: Her obsequies have been as far enlarg'd
As we have warranty. Her death was doubtful,
And but that great command o'ersways the order,
She should in ground unsanctified been lodg'd
Till the last trumpet.*

*We should profane the service of the dead
To sing requiem and such rest to her
As to peace-parted souls.*

With righteous anger and fraternal love, Laertes declares Ophelia's purity of soul and invokes God's judgment upon the priest:

*Lay her i'th' earth,
And from her fair and unpolluted flesh
May violets spring! I tell thee churlish priest,
A minist'ring angel shall my sister be
When thou liest howling.*

One could contend that what the priest says about Ophelia being unfit for the rites of "peace-parted souls" (that is, those who passed naturally) is worse than

what the Detroit priest said in his homily. Yet Laertes, in all his anger, does not question the right of the Church to set the rules or the priest to judge accordingly. Though he disagrees with the judgment made and the rites withheld, he seems to accede to the priest's authority in the matter pertaining to the Church service, by saying, "Lay her i' th' earth . . ." He claims the right to pass his own judgment on the case at hand, but does not appeal to king or queen or magistrate, leaving the final judgment to God.

Yet subtly woven into this confrontation of priest and aggrieved brother are two lines that may prove germane to our discussion:

*And but that great command o'ersways the order,
She should in ground unsanctified been lodg'd*

That is to say, Ophelia should have been buried in unsanctified ground with other suicide victims, as prescribed by the "order" of the Church. Whose "great command" overrules the Church's custom in regard to suicide? Some online scholars claim that the coroner provided evidence that Ophelia had not killed herself, but if that were the case, why would the priest deny her full rites of "peace-parted souls"? Others say that the "great command" came from the king, to claim some dignity in death for the sister of Laertes, with whom he conspires to kill Hamlet. If that is the case, then we can see in this scene a softening of the Church's strictures on suicide by the highest civil authority of the realm.

Of course, a scene from the early 1600s should not "o'ersway" a current American court case. After all, neither Hamlet's Denmark nor Shakespeare's England had a First Amendment regarding free speech and religion. But it is perhaps instructive that the matters of death, burial, loss, and memory should produce such a stirring in the human heart that a brother leaps into his sister's grave and a mother brings a priest and his church to court. Small wonder then that the topic of suicide stands as a central theme in one of the West's pivotal dramas—"To be, or not to be, that is the question."

You Don't Have to Be a Christian to Be Against Abortion (But It Helps)

George McKenna

Every time we understand, we owe it to our faith that we understand.

—Origen

Why has the abortion controversy divided along religious lines? Why are “abortion rights” far more likely to be opposed by practicing Catholics and conservative, Bible-reading Protestants than by liberal Protestants, lapsed Catholics, atheists, and agnostics? And why are activists on both sides so intense in their views?

There are exceptions. The late Nat Hentoff, a self-described “Jewish atheist” writer and activist, is the one most frequently cited. He was a stalwart leftist on every major social issue—with the exception of abortion, on which he took a firm pro-life position. Hentoff was frank in recounting his view. “I think the question I’m most often asked from both sides is, ‘How do you presume to have this kind of moral conception without a belief in God?’ And the answer is, ‘It’s harder. But it’s not impossible.’”

But why is it harder? Of course, he may have meant that it was harder *on him*. He was shunned and verbally abused by former allies, and invitations to speak at universities were withdrawn under pressure from liberal professors and students. In that sense, it was indeed very hard. But there is another sense in which it must have been harder for him, and I think that was what he really meant. It was, and remains, very hard for anyone who seeks to defend life without religious faith, particularly Christian faith.

My Secular Solution

There was a time in my life when I thought the abortion issue could be argued in rigorously secular terms, without any reference to my faith. In my Biology 101 class at the University of Illinois I learned that a human being is conceived when human sperm, containing 23 chromosomes, fuses with a human egg, also containing 23 chromosomes. This sudden event normally produces a 46-chromosome human zygote, which immediately sets off a gradual process of growth. Along the way it gets called by different names: zygote, embryo, fetus, infant, toddler, child, adolescent, adult. It’s a continuum in the life of a single

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human being, set off by one dramatic event, conception, that sets in motion the growth process. All this I learned from a Japanese professor of no religious persuasion known to me, and whose classroom teaching never once touched on the subject of religion or morality. (He later committed suicide after failing to get tenure, a literal victim of academia's irrational "publish or perish" policy.) To me, though, his teaching contained this lesson: To terminate—to kill—a human being at any point in the continuum is morally wrong and rightly banned by law.

Now here, I thought, is a pro-life argument that could reach across to all religions, even to atheists. Recently I watched an internet video by a pro-life atheist making exactly that point. "Prolifers," she said, "want the law to reflect the scientific fact that life begins at fertilization, not just whenever we feel like life begins. . . . Absolutely any textbook on biology is going to define the fertilization of any mammal to be the beginning of that new mammal's existence. For the most part, if someone's challenging me on that, I like to just throw the challenge back and say: 'Show me anywhere, any biology textbook that says anything other than that, and then we can talk about it.'" This sparked an angry reply from a fellow atheist in a website called Friendly Atheist, who warned her readers not to "get misled by this red herring."

Not every form of life is inherently precious, sacred and valuable. That includes human forms of life. To say otherwise is arguably a religious position. (It's the religious people who believe we possess souls from conception thanks to God.) Furthermore, there's a lot of context that biology textbooks don't (and wouldn't) include.

The "context" turns out to be territory familiar to anyone following the current abortion debates: It is "women's bodily autonomy, choices, and lives." Of the three, "choices" predominates: "The reason an embryo or fetus becomes valuable or precious is because a woman who has it in her uterus decides to keep it, allows it to fully gestate, and then gives birth to it."

Do you see now why our (the pro-life atheist and myself) purely secular argument for life doesn't work? Despite all the accurate biological facts we cite, we are stopped in our tracks by this premise: *A gestating human being at any stage is precious or valuable only if its mother thinks it is.* Our pro-life argument is not so much wrong as irrelevant. The pro-choice atheist is saying, "I don't care about your facts. If a mother chooses to consider her fetus disposable, that's it!"

Nine Months—and Beyond

This premise will take you very far. In fact, you can't stop it at any point in the pregnancy—not at three months, not at six months, not even at nine months; *Roe v. Wade* and its companion case, *Doe v. Bolton*, had enough loophole language in them to empower *any* state to allow abortions right up to birth. New York State was one of the latest to take advantage of this, celebrating its new

nine-month abortion bill by lighting up the Freedom Tower in pink.

Now we discover you can't even stop it there. In 2019, Democratic Governor Ralph Northam of Virginia was asked by a radio host about a bill in the legislature that would make Virginia's permissive abortion law, which, like New York's, allows abortions up to birth, even more permissive by shortening the number of physicians required to sign off on the abortion from three to one. Apparently, many Virginians didn't know about the reach of the *existing* law until the bill's sponsor was forced to admit that it did not even protect *born* babies who had survived their abortions. Noting the shocked reaction among many Virginians, the radio host asked Governor Northam, a pediatric neurologist, to weigh in on the controversy. In the soft drawl of Virginia's Eastern Shore, Governor Northam explained:

If a mother is in labor, I can tell you exactly what would happen. The infant would be delivered. The infant would be kept comfortable. The infant would be resuscitated if that's what the mother and the family desired, and then a discussion would ensue between the physician and the mother.

Northam later tried to walk back some of this, saying that his political enemies had taken his remarks "out of context," but note that he had insisted his words were sufficient to explain "exactly what would happen." Let's unpack what he said. First of all, this is no "fetus" but an already-born "infant," who is to be "kept comfortable" while she struggles to survive an attempted homicide. Second, she is to be resuscitated only if "the mother and the family" ask the doctor to do so. Third, even if she is successfully resuscitated, a "discussion" then ensues over the question whether she will be allowed to continue living, i.e., whether further measures will be taken to keep her alive. With his usual flair for hyperbole, President Donald Trump called this an "execution," earning several angry Pinocchios from his opponents in the media. But think about it: if I were to gravely wound you, then refuse to allow medical help to try to save your life, is that much different from an execution?

So, we have ninth-month abortions in the United States. And if the abortion doesn't work, you can "have a conversation" about whether to let die the infant who has somehow survived it. Even the most liberal countries in Western Europe do not have these kinds of abortion laws, and only a tiny percentage of Americans would approve of them—if they knew about them. They probably don't, which is why a bill in the U.S. Senate in 2019 aimed at saving the lives of aborted infants failed to gather enough votes to override a Democrat filibuster. (Only three Democrats voted for the bill.) We can call these late-term practices barbaric, but that is not enough. We have to ask ourselves seriously: Why should we outlaw them?

Christians and Human Life

If you asked that question of the average American, the answer would probably be simply, “Because you’re not supposed to kill innocent people.” But perhaps some perverse Socrates persists in questioning: “Why not?” Now there might be some fumbling around to find a more scholarly answer. Here is a likely one: Because our country is founded on the right to live. Our Declaration of Independence makes “life” one of the three great truths held by its authors to be “self-evident.” But our latter-day Socrates might insist (with deepest respect to the Declaration’s authors) that the right to life is not at all self-evident. “It is what it is” is self-evident, but not many other propositions are. If they were, they’d be immediately recognized as such by people all over the world. Turn on your TV news and see how many nations and groups act as if the right to life is self-evident.

Finally, after being pushed to the point of exasperation, the average American may finally blurt out: “Because every single human life is precious!” Now this is just the kind of language that provokes the “aha” moment from our pro-abortion atheist. Here is what she would say: “‘Every human life is precious’ is a Christian doctrine, derived from the life and teachings of Jesus Christ; it cannot be proven by any branch of science, history, or law. Therefore, it cannot become enshrined in our legal system, which is based on the Constitution, a secular document meant to govern people of every religion and no religion; the Constitution creates a ‘wall of separation’ between Church and State.”

What is the answer to this argument? Or is there an adequate answer? Before we can examine these questions with the care they deserve, we need to look at Christianity in larger perspective, both horizontally and vertically.

By horizontally I mean seeing how Christianity deals with a wider range of “life” issues, not just abortion but also physician-assisted suicide and other “quality of life” killings, such as the withdrawal of food or water from helpless people judged incapable of living a “meaningful” life. Eight states and the District of Columbia currently allow physician-assisted suicide, and the number will probably be growing as more state legislatures succumb to the pressures of groups with names like “Compassion and Choices” and “Death with Dignity.” As for “quality of life” issues, these are usually debated in courtrooms rather than legislatures; they emerge from legal challenges to caregivers and doctors seeking to end the life of patients by deliberate medical neglect. Some of them, like the Baby Jane Doe case in 1983 (refusal to repair spina bifida in an infant) and that of Terri Schiavo in 1990 (depriving a mentally impaired adult of food and water) have occupied headlines for a time before being resolved—in favor of death in those two cases.

So, here are cases, disparate in many respects, that have two features in common:

First, they all involve the fate of human beings. Even those who wish them dead can't deny that they're human. (How can they? We're not chickens.) But they will not grant the unborn "personhood," an infinitely flexible term. Some of the human victims are young, some are very old. Some are in the womb, some are outside of it; some are seriously ill, some are healthy but limited in the range of their capacities. The second commonality in these cases is that people invested with the care of these human beings are seeking to end their lives, and so are met with resistance by those opposed to killing them.

In all these disputes it has been serious Christians—practicing Catholics and evangelical Protestants who cling tenaciously to the historic tenets of their religion—who have been fighting the hardest to keep them alive.* Why does it line up this way?

To shed some light on this question, we need to drill down vertically into the pre-Christian era and take a look at how vulnerable human beings were treated in those days. British historian Tom Holland sheds light on this in *Dominium*, his recent book exploring the influence of Christian thought from ancient times to the present. In the book's preface he recounts the rediscovery of his own Christian roots while working on earlier historical studies of classical, pre-Christian antiquity.

The more years I spent immersed in the study of classical antiquity, so the more alien I increasingly found it. The values of Leonidas, whose people practiced a peculiarly murderous form of eugenics and trained their young to kill uppity *Untermenschen* by night, were nothing that I recognized as my own; nor were those of Caesar, who was reported to have killed a million Gauls, and enslaved a million more. It was not just the extremes of callousness that unsettled me, but the complete lack of any sense that the poor or the weak might have the slightest intrinsic value.

Holland, whose own Christian beliefs had faded during his rebellious teenage years, was still Christian enough to see how repugnant these practices were to his principles, which "were not bred of classical antiquity, still less of 'human nature,' but very distinctively of [our] Christian past."

The Christian Roots of Civil Rights

Christianity, derived from the life and teachings of Jesus of Nazareth, turned the classical world upside-down. It came into the world at a time when unwanted babies were routinely done away with and gladiators were treated as disposable objects of entertainment. Christianity changed that culture. As Holland notes, "The fabric of things was rent, a new order of time had come into existence." At the heart of this new religion was the belief that every human being is infinitely

*I have omitted discussion of Orthodox Judaism in this essay, even though it opposes abortion in most cases ("life of the mother" being one exception) because, at least since the destruction of the Temple in 70 AD., its pro-life position is rooted in different theological premises than those of Christianity.

precious in the eyes of God. This had immediate consequences. Early Christians set up shelters, hospices, and soup kitchens to serve the poor and needy of every religion, rescued infants left to die in forests, provided shelter and care to widows and orphans, and, over the ensuing centuries, sought to carry out this same message: Even the lowliest people, perhaps especially the lowliest, are loved by God.

It was Christianity that moved Jesuit missionaries in South America in the sixteenth and seventeenth centuries to resist the Spanish landowners' attempts to enslave the native populations, Christianity in the eighteenth-century that moved a former slave-ship captain named John Newton to join forces with William Wilberforce to abolish the slave trade and write "Amazing Grace" as testimony to his conversion. In the twentieth century it was Christianity that drove Lutheran Pastor Dietrich Bonhoeffer to give his life in a plot against Adolf Hitler, Christianity that led to the martyrdom of Bishop Oscar Romero of San Salvador for continuing to condemn the oppression of the poor in his country, and in our own country it was Christianity that was foremost on the mind of Martin Luther King as he sought justice for the oppressed.

At the very outset of his civil rights crusade he insisted that "we must keep God in the forefront." The rights granted to all citizens of the U.S. were "God given," he said, and in his famous "Letter from a Birmingham Jail" he invoked the authority of St. Thomas Aquinas and St. Augustine to support his condemnation of unjust laws. To the objection that Martin Luther King and others were not directing their arguments against abortion but at abuses of people's civil rights, the obvious reply is that the most basic of all civil rights is the right not to be terminated. King, assassinated in 1968, did not live to see the full fury of the abortion controversy that led up to *Roe v. Wade* and *Doe v. Bolton* in 1973, but at least one of his close associates at the time, the Rev. Richard John Neuhaus, lived long enough to perceive the connection between racial oppression and abortion. Neuhaus, a Lutheran minister who later converted to Catholicism and was ordained a priest, had joined King in many demonstrations against Jim Crow practices in the South. By the 1970s he had perceived the connection between what he and King had been engaged in during the '60s and the contemporary pro-life movement, which he now called "the great civil rights movement of our time."

The golden thread weaving together the two movements was belief in the dignity of every human being regardless of race, income, gender, intelligence, strength, or any other attribute. That dignity is the source of human rights—rights not granted by society but given by God.

It is a specifically Christian doctrine, derived from the teachings of Jesus. It cannot be proven mathematically, or by any form of scientific reasoning, because it comes from the realm of faith. Yet it lies at the heart of Christian

doctrinal preaching since St. Paul first took it on the road in 36 A.D. It was frequently voiced by Martin Luther King at large rallies in the 1960s, even though, according to Father Neuhaus, the reporters at the rallies didn't much care about it. Looking back from 2002, Neuhaus recalled the many times when, in the course of his preaching, King would start to talk about the theological and moral foundations of the movement. "The klieg lights and cameras shut down, only to be turned on again when he returned to specifically political or programmatic themes. 'Watch the lights,' he commented. '*They're not interested in the most important parts.*'" (Emphasis added.)

If the core belief of Christianity is the inherent dignity of human beings—if every human being is precious—then it becomes obvious why Christian groups over the years and the centuries have made it their mission to help those in need: feeding and housing the poor, running hospitals, orphanages, and schools, caring for the physically and mentally handicapped, and, today especially, giving shelter, food, and love to women in crisis pregnancies so that their children can be born and thrive.

Walls and Doors

America has never been a theocracy; even among the New England Puritans it was agreed that government in America is to be run by civil authorities, not by priests or ministers, and the Constitution's First Amendment specifically bans a national "establishment" of any specific religion, with that religion's exercises officially sponsored by the government. (A few individual states had religious establishments, but the last one was abolished in 1818.)

At the same time, and this is important, there has never been "separation of Church and State," much less "a wall of separation" in America. Those expressions are nowhere found in the U.S. Constitution. A "wall of separation" is a singularly inappropriate metaphor for helping us understand the historic relationship between Church and State in America. In legal doctrine the metaphor was first used in 1947 by Supreme Court Justice Hugo Black, speaking for a five to four majority in a case involving public financing to provide busing of children to religious schools. It didn't even fit the facts behind the Court's actual ruling in the case, which *permitted* state-financed busing to parochial schools. Justice Black tried to reconcile the apparent contradiction by saying that the state-financed busing was not an aid to *the religion taught* in the school but aid to the *parents of the children attending* the school.

That reasoning seemed pretty strained to the four dissenting justices. The fact of the matter, they said, is that "money taken from taxation" is being used here to "give aid and encouragement to religious instruction." And they were right: What this was about was not a wall but a door opening to let kids go to religious schools. Where the four dissenters went wrong was in believing that this was

somehow violating the Constitution and traditions of America. On the contrary, as Supreme Court Justice William O. Douglas later put it, speaking for a 7-2 majority in the case of *Zorach v. Clausen* (1952): “We are a religious people whose institutions presuppose a Supreme Being.” All of our great founding statesmen, from Washington through Lincoln, saw religion as the foundation of public morality. As Washington said in his Farewell Address: “Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.” The same thoughts were expressed by others of that same era, including James Madison and even Thomas Jefferson, the patron saint of separation of Church and State, who began his “Virginia Statute for Religious Freedom” by invoking “Almighty God, the Holy author of our religion.” As for Lincoln, all his most famous speeches were steeped in biblical Christianity; his Second Inaugural Address can be read as an extended Judeo-Christian prayer.

At the center of the Christianity which America has inherited is the insistence that the life of every human being is a precious gift of God. I have already acknowledged that I can’t prove this by any empirical method, but I can affirm with confidence that this doctrine was original to that religion, that it was not there in pre-Christian times. Now I am going to throw all caution to the winds and make a value judgment: I think it is a very good doctrine. Not only has it saved trillions of lives down through the centuries, it has become the keynote of Western Civilization, governing everything from the rules of war (we don’t shoot prisoners) to the conduct of our police and our courts.

Today’s Challenges

The religious and moral premises underlying that civilization are being challenged today by a number of actors, from nihilistic terrorists who throw away their own lives to kill crowds of civilians, to the political leaders who excuse those tactics for the sake of “higher” ends.

It is also being challenged within America’s institutions of higher learning and in some of its most prestigious media outlets. They have come to subordinate human life to other ideals that they judge to be more important, without making any effort to reconcile those ideals with the basic right to life. When directly challenged, they will bend their minds into pretzels to explain why a child in the womb has no inherent right to continue living. I have refrained until now from taking a critical look at how our pro-abortion atheist has justified abortion. Here it is again: “The reason an embryo or fetus becomes valuable or precious is because a woman who has it in her uterus decides to keep it, allows it to fully gestate, and then gives birth to it.” Think about that: The value of one human being’s life depends upon what another human being thinks about it. So the value of my wife’s life depends upon whether I think it is valuable? That

can't be right. Well, but my wife is not inside me, so maybe that makes all the difference? But the little creature inside the woman is still a separate human being—my biology teacher taught me that. He also taught me that the little creature in the womb is very much dependent on the mother; but so is a born baby. Dependence does not give a license to kill. If anything, it strengthens the need for care and safety of the dependent.

The value of a *thing* depends on what people think of it. An eighteenth-century spinning wheel is all but completely valueless functionally, but it would earn a small fortune for its owner today because many people would like to have it in their living rooms. That was the way whole classes of people used to be valued. A victorious gladiator was worth a lot, a maimed one not so much, a strong slave (or a pretty one) was much valued, the average prostitute was worth a cup of cheap wine, and a leper was worth precisely nothing. Jesus changed all that.

As a follower of Jesus, I am saying that my religious doctrine, particularly the part about the preciousness of every individual life—which I can't prove by secular reasoning—is what drives me to speak out against abortion and pray in front of abortion clinics. If any atheists or agnostics want to join me, they are most welcome, and more power to anyone who can devise a convincing secular pro-life argument. Me, I'm sticking with Jesus.



"What are you waiting for, Harry?"

The Non-Feminist Abigail Adams

Edward Short

I

In 1778, while sorting out peace terms in France after the American Revolutionary War, John Adams wrote his wife Abigail of how pleased he was that “so many respectable strangers” were visiting with her in his absence because, as he said, it gave his wife a chance of “speculating upon these illustrious characters,” and it gave them “an opportunity of observing that their new Ally can boast of Female Characters equal to any in Europe.” John himself had received renewed proof of just what an admirable wife he had married in Abigail when she wrote him earlier in the year of how her “greatest comfort and consolation” in the otherwise lacerating absence of her husband and their 10-year-old son John Quincy was “the Belief of a Superintending providence, to whom I can with confidence commit you since not a Sparrow falls to the ground without his Notice.” John could also see what an admirable mother his wife was in her stern remonstrance to her precocious son. “Dear as you are to me,” she told John Quincy, “I had much rather you should have found your Grave in the ocean you have crossed, or any untimely death crop you in your Infant years . . . than see you an immoral profligate or a Graceless Child.” One of the “respectable strangers” to whom John had referred in his letter was the admiral of the French fleet, the Comte Charles-Henri Théodat d’Estaing, whose fleet of twelve ships had been narrowly thwarted by Lord Howe’s smaller fleet from attacking the British garrison, first in New York and then in Newport. After sailing from Newport, the comte had put up in Boston Harbor and invited Abigail and as many family members as she wished to come and dine with him on his flagship, the 64-gun *Languedoc*. Abigail reported back to John that the dinner for thirteen had been “an entertainment fit for a princess.” Clearly, the comte saw that his guest of honor was a “Female Character equal to any in Europe.” Thanks to Abigail’s letters, which for insight, verve, charm, and perspicacity, rival those of Madame de Sévigné, we, too, can enter into the peculiar brilliance of her character. In this essay I shall revisit Abigail’s life and letters in order to show that while neither her husband nor her French friend was mistaken about the distinction of that character, some of our contemporaries are, especially those who see her, not, as she must be seen, in her own historical context as a wife, mother, and grandmother, but as what one of her biographers calls a “prototypical” feminist, a label she would have scorned.

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II

Abigail Adams (1744-1818) was born in Weymouth, Massachusetts, the daughter of a country parson, William Smith, and his wife Elizabeth Quincy Smith. In addition to her character, another striking thing about Abigail was her beauty. David McCullough, in his popular biography of John Adams, relates how the portrait painter Gilbert Stuart regretted that he had not painted Abigail in youth, so convinced was he that she would have made “a perfect Venus.” For the historian Bernard Bailyn: “Abigail’s face is extraordinary, not so much for its beauty, which . . . is clearly . . . there, as for the maturity and the power of personality it expresses.” One can see this clearly in the redoubtably poised young lady of twenty-two that Benjamin Blythe painted in 1766. While Abigail received no formal schooling, she read widely in her Congregationalist father’s library in literature, history and French. Among her favorite authors were Joseph Addison and Richard Steele, who had made the *Spectator* so popular among Georgian readers; Samuel Richardson, whose realistic depiction of female virtue betrayed in his novel *Clarissa* (1748) fascinated an early America cognizant of how vital protecting this virtue was for the establishment and flourishing of civil society; the great moralist, lexicographer, and poet critic Samuel Johnson, and the political philosopher Edmund Burke, whose *Reflections on the French Revolution* was widely read in post-Revolutionary America together with Thomas Paine’s *Rights of Man*. A good sense of Abigail’s critical smarts can be seen in her reading of Lord Chesterfield’s *Letters to His Son* (1774), about which she wrote a friend:

A collection of his Lordships Letters came into my Hands this winter which I read, and though they contain only a part of what he has written, I found enough to satisfy me, that his Lordship with all his Elegance and graces, was a Hypocritical, polished Libertine, a mere Lovelace [the character in Richardson’s novel who leads *Clarissa* astray], but with this difference, that Lovelace was the most generous Man of the two, since he had justice sufficient to acknowledge the merit he was destroying, and died penitently warning others, whilst his Lordship not content himself with practicing, but is in an advanced age, inculcating the most immoral, pernicious and Libertine principals into the mind of a youth whose natural Guardian he was, and at the same time calling upon him to wear the outward Garb of virtue knowing that if that was cast aside, he would not be so well able to succeed in his pursuits.

Since “inculcating the most immoral, pernicious and Libertine principals” into the mind of youth is of the essence of much feminist education, we should keep this passage in mind when we consider whether Abigail’s views on education justify her being branded a feminist.

Abigail married John Adams in 1764 when she was nineteen and he was twenty-eight, an ambitious young attorney in what he called “that noisy, dirty Town of Boston, where Parade, Pomp, Nonsense, Frippery, Folly, Foppery, Luxury,

Politics, and the soul,” not to mention “Confounding Wrangles of the Law” gave him “the Higher Relish for Spirit, Taste and Sense.” Curiously enough, John’s literary debut was a temperance tract against taverns, which, being a drinker himself, he later regretted as hypocritical, though his wife would have seen its point, having a brother and two sons who suffered from alcoholism. The Adamses had six children, Abigail (“Nabby”), John Quincy, Charles, Susannah, Thomas Boylston and Elizabeth. However, only four survived; Susannah was born in 1768 but died scarcely two years later, and Elizabeth was stillborn in 1770. In 1813, when her son John Quincy’s English wife lost her fourth child Louisa in infancy in Russia, Abigail wrote her one of her most heartfelt letters, one which proliferates will particularly appreciate.

How shall I address a Letter to you, how share and participate in your Grief without opening afresh the wound which time may in some measure have healed? Distance excluded me from knowing Your distress, or sharing your Sorrows, at the time when you most needed consolation but neither time, or distance has banished from my Bosom, that Sympathy which although, Billows rise; and oceans Roll between us; like mercy is not confined to time or space, but crosses the Atlantic and mingles tears with you over the grave of your Dear departed Babe, whom with an Eye of faith, I behold with other Innocents, surrounding the Throne of their Maker, and singing Hallelujahs to the most high; or who knows but they may be called “to act as Seconds to Some Sphere unknown.”

While John was away for long stretches in Philadelphia with the Continental Congress during the American Revolution and afterwards in Europe, where he helped to put American diplomacy on the map, Abigail managed the family household and farm and built up her abounding correspondence. For 15 of their 54-year marriage John and Abigail were separated, and in the candid and far-ranging letters they wrote to one another they composed an epistolary biography of their marriage of incomparable richness and depth. While they crossed swords now and again, they never stopped loving one another—as John once remarked, they were like “the steel and magnet.” John’s letters might be occasionally reserved—there was always the possibility that enemies might intercept them—but they nonetheless reveal how much he delighted in the wife he aptly nicknamed Portia. “Is there no way for two friendly souls to converse together although the bodies are four hundred miles off,” he asked in one missive. “Yes, by letter. But I want a better communication. I want to hear you think or to see your thoughts.” For the passionate thinker in John, this was no idle compliment. After Abigail relayed how the American colonists had repulsed the British at Bunker Hill, without suffering anything like the casualties they feared, he was exultant. “The account you give me of the numbers slain on the side of our enemies is . . . a glorious proof of the bravery of our worthy countrymen. Considering all the disadvantages under which they fought, they really exhibited prodigies of valor. Your description of the distresses of the worthy inhabitants

of Boston and the other seaport towns is enough to melt a stone.” Here was apt recognition of what Abigail had once said herself about her epistolary mode: “My language is warm from the heart, and faithful to its fires.” If John Adams had had nothing to do with the founding of the United States of America, he would still merit the esteem of his compatriots for being the first to recognize the genius of Abigail’s letter writing.

For Abigail, being separated from her husband could give her letters a rhapsodic eloquence. “I dare not express to you, at three hundred miles’ distance, how ardently I long for your return,” she wrote in 1774 when the colonies’ secession from the Mother Country was not altogether decided. “The whole collected stock of ten weeks’ absence knows not how to brook any longer restraint, but will break forth and flow through my pen. May the like sensations enter thy breast, and (spite of all the weighty cares of state) mingle themselves with those I wish to communicate. . . . You cannot be, I know, nor do I wish to see you, an inactive spectator; but if the sword be drawn, I bid adieu to all domestic felicity, and look forward to that country where there is neither wars nor rumors of war, in a firm belief, that through the mercy of its King we shall both rejoice there together.” That country would always appeal to an age not entirely dissevered from its Christian moorings, though once the sword was drawn, Abigail showed her patriotism for a different, less ethereal land. “A fine, quiet night,” she wrote John in March of 1776. “No alarms—no cannon. The more I think of our enemies quitting Boston, the more amazed I am that they should leave such a harbor, such fortifications, such intrenchments, and that we should be in peaceable possession of a town which we expected would cost us a river of blood, without one drop shed. Surely it is the Lord’s doings, and it is marvelous in our eyes. Every foot of ground which they obtain now they must fight for, and may they purchase it at a Bunker Hill price.”

From 1784 to 1788, Abigail lived abroad with her husband and eldest son in France and England. Of the latter country’s society, she remarked that she thought it “distant, haughty and unpolite,” though she also qualified this by saying that “We must allow something for their feelings, humbled as they really are, in the eyes of Europe, at the triumphs and victories obtained over them by land, and by sea. It is only Americans who forgive their enemies, and hug them too!” When her husband assumed the vice presidency in 1789, Abigail joined him, first in New York and then in Philadelphia. In 1797, after John became the nation’s second president, Abigail joined him in the executive mansion in Philadelphia. In 1800, John and Abigail became the first residents of the White House in Washington. Years of managing her own households in America and in Europe gave her the confidence she needed to tackle the much more demanding appointments of the White House, which First Ladies from Martha Washington to Melania Trump would appreciate. “The house is upon a grand and superb

scale, requiring about thirty servants to attend and keep the apartments in proper order, and perform the ordinary business of the house and stables,” she wrote her daughter “Nabby.”

The lighting of the apartments, from the kitchen to parlours and chambers, is a tax indeed; and the fires we are obliged to keep to secure us from daily agues is another very cheering comfort. To assist us in this great castle, and render less attendance necessary, bells are wholly wanting, not one single one being hung through the whole house, and promises are all you can obtain.

In the same year, their son Charles, a failed lawyer and philandering rake, died at the age of thirty of cirrhosis of the liver. “His parents’ grief,” James Grant remarks in his splendid biography of John Adams, “was doubly reproachful—towards themselves and him.” In 1801, after her husband’s defeat in the presidential election to Thomas Jefferson, Abigail left Washington and returned to their country estate, the Old House in Quincy. On the 28th of October, 1818, Abigail died of typhoid fever. Before handing in his own dinner pail, John assured his son that he could endure his last separation from Abigail because he knew it would be relatively brief. With a fine patriotic flourish, he then contrived to die on Independence Day, 1826.

In a diary entry on the day of her death, John Quincy Adams summed up the woman who meant so much not only to him and his family but to later generations of the extraordinary Adams family as well. “My mother was an angel upon earth,” John Quincy wrote.

She was a minister of blessing to all human beings within her sphere of action. Her heart was the abode of heavenly purity. She had no feelings but of kindness and beneficence; yet her mind was as firm as her temper was mild and gentle. She had known sorrow, but her sorrow was silent. She was acquainted with grief, but it was deposited in her own bosom. She was the real personification of female virtue, of piety, of charity, of ever active and never intermitting benevolence. Oh God! could she have been spared yet a little longer! My lot in life has been almost always cast at a distance from her. I have enjoyed but for short seasons, and at long, distant intervals, the happiness of her society, yet she has been to me more than a mother. She has been a spirit from above watching over me for good, and contributing by my mere consciousness of her existence to the comfort of my life. That consciousness is gone, and without her the world feels to me like a solitude. Oh! what must it be to my father, and how will he support life without her who has been, to him its charm? Not my will, heavenly Father, but thine, be done.

III

The contention that Abigail was a feminist before her time is typically based on three things: a letter she wrote her husband when he was attending the Continental Congress in Philadelphia; her negotiation of the law of coverture in her conduct of the family properties; and her views on the education of women. Here is the celebrated passage from the letter she wrote John in March of 1776

enjoining him to “Remember the Ladies:”

I long to hear that you have declared an independency. And, by the way, in the new code of laws which I suppose it will be necessary for you to make, I desire you would remember the ladies and be more generous and favorable to them than your ancestors. Do not put such unlimited power into the hands of the husbands. Remember, all men would be tyrants if they could. If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation. That your sex are naturally tyrannical is a truth so thoroughly established as to admit of no dispute; but such of you as wish to be happy willingly give up the harsh title of master for the more tender and endearing one of friend. Why, then, not put it out of the power of the vicious and the lawless to use us with cruelty and indignity with impunity? Men of sense in all ages abhor those customs which treat us only as the vassals of your sex. Regard us then as being placed by Providence under your protection, and in imitation of the Supreme Being make use of that power only for our happiness.

John’s response showed his readiness to spar with his brilliant wife, but also his appreciation of how husbands and wives in eighteenth-century America lived in practice, not theory.

As to your extraordinary code of laws, I cannot but laugh. We have been told that our struggle has loosened the bands of government everywhere; that children and apprentices were disobedient; that schools and colleges were grown turbulent; that Indians slighted their guardians, and negroes grew insolent to their masters. But your letter was the first intimation that another tribe, more numerous and powerful than all the rest, were grown discontented. This is rather too coarse a compliment, but you are so saucy, I won’t blot it out. Depend upon it, we know better than to repeal our masculine systems. Although they are in full force, you know they are little more than theory. We dare not exert our power in its full latitude. We are obliged to go fair and softly, and, in practice, you know we are the subjects. We have only the name of masters, and rather than give up this, which would completely subject us to the despotism of the petticoat, I hope General Washington and all our brave heroes would fight; I am sure every good politician would plot, as long as he would against despotism, empire, monarchy, aristocracy, oligarchy, or ochlocracy.

Abigail’s bantering response to this suggests that she might not have entirely disagreed with its analysis of the “give and take” that necessarily obtained between spouses in the “masculine systems” of eighteenth-century America. In this instance, as in many others, she was never averse to the “give and take” of debate, in contrast to the doctrinaire refusal to debate that we see in so many feminists, especially those enamoured of abortion. “I cannot say that I think you are very generous to the ladies,” Abigail wrote: “for, whilst you are proclaiming peace and good-will to men, emancipating all nations, you insist upon retaining an absolute power over wives. But you must remember that arbitrary power is like most other things which are very hard, very liable to be broken; and, notwithstanding all your wise laws and maxims, we have it in our

power, not only to free ourselves, but to subdue our masters . . .”

John would not have disagreed. Certainly, he never wielded absolute power in his own marriage. Indeed, more often than not, he was happy to defer to Abigail, especially since her judgment proved so reliable, whether with respect to many of his political decisions, the demands of the family farm, the purchase and disposal of the family properties, the management of their respective households, or the education of their children. Since he would often find himself tortured, as men of affairs are, by what he nicely referred to as “the Folly, Littleness, and Knavery in this World,” he always accounted himself blessed to be able to rail at such things with a wife as bright and discriminating as Abigail. “Amidst all your afflictions,” he wrote her after the death of her mother, “I am greatly rejoiced to find that you all along preserve so proper and so happy a temper—that you are sensible ‘the Consolations of Religion are the only sure Comforters.’”

Despite all of their separations, or, perhaps, because of them, it was their shared Christian faith that gave their marital bond its hoops of steel. “You and I, my dear, have reason, if ever mortals had . . . to look . . . beyond the transitory scene,” John wrote Abigail in reaffirmation of this unwavering faith. And it was precisely Abigail’s trust in the world beyond the “transitory scene” that gave her the strength that John found so admirable. “It gives me more pleasure than I can express,” he wrote her in the summer of 1775, when Boston was under siege, “to learn that you sustain with so much fortitude the shocks and terrors of the times. You are really brave, my dear. You are a heroine.” Both John and Abigail would have been amused to hear of what the prodigious English letter writer Horace Walpole made of the Bostonians’ stand against their British masters in the gathering insurrection. “If you have any inspiration about you,” Walpole wrote his cousin Henry Conway, the soldier, statesman, and critic of Lord North’s American policy when that policy was becoming ever more untenable, “I assure you it will be of great service—we are at our wit’s end—which was no great journey.”

What we see in most feminist interpretations of the “Remember the Ladies” exchange between Abigail and John is a thoroughly ahistorical misreading of Abigail in her own historical setting. As the scholar Carl Degler points out in his balanced study *At Odds: Women and the Family in America from the Revolution to the Present* (1980): “Rather than denying in any way wifedom or motherhood as the role of women, Abigail Adams merely asked for an improvement in the traditional relationships with husbands.” To contend, as some feminist historians do, that Abigail was somehow at fundamental odds with her husband—a husband, who, according to Elizabeth Evans in her feminist study *Weathering the Storm: Women of the American Revolution* (1975), “was quite bullheaded about women’s rights and refused to take them seriously”—is to miss the affectionate raillery that animates so much of their correspondence. It

also fails to take into account how much Abigail rejoiced in her role as wife. “Good night,” she signed off one letter to John in 1777, “friend of my heart, companion of my youth, husband and lover. Angels watch thy repose!” This is hardly the language of a wife who found her husband “bullheaded.”

Edith Gelles, the least unreliable of Abigail’s biographers, appreciates that such licentious revisionism “perpetuates the very misinterpretations” that good historians should endeavor to dispel. As she writes in her thematic biography *Portia: The World of Abigail Adams* (1992), “The prevailing female role of the eighteenth century—the domestic role that Abigail herself valued as the greatest in her life—is overshadowed [in such feminist revisionism] by a mythical political activism that reflects late twentieth-century ideology.” In other words, the historical Abigail Adams has been pushed aside to make way for an anachronistic Abigail Adams designed expressly to endorse and promote the feminist cause.

Another aspect of Abigail’s character often cited in support of her suppositious feminism is her fondness for amassing property at a time when the law of coverture stipulated that, in the case of married couples, only the husband could own property. Yet the ingenuity with which Abigail eluded the technical limitations of married women owning property proves the law’s porousness. While it is true that coverture held that husband and wife were one under law and that it was the husband who technically owned the married couple’s property, it is also true that as a result of John’s frequent absences from the family, it was Abigail who amassed and managed the family properties. If the law of coverture had been as oppressive as feminist historians contend, Abigail should never have been able to purchase and manage the property she did. Moreover, that she handled the family properties with inveterate aplomb was always acknowledged by her grateful husband. “Your Reputation, as a Farmer, or any Thing else you undertake I dare answer for,” he wrote Abigail in a letter of April, 1776. “Your Partners Character as a Statesman is much more problematical.”

Abigail’s call for the formal education of women is yet another facet of her character cited to suggest that she was a pioneering feminist. Yet, even here, the claim is unpersuasive. After lamenting the poor state of education in the country, Abigail wrote her husband in August of 1776 that: “If we mean to have heroes, statesmen, and philosophers, we should have learned women.” Indeed, she was convinced that America should have “some more liberal plan laid out and “executed for the benefit of the rising generation,” ensuring that “our new constitution may be distinguished for Learning and virtue.” That the Bradford Academy in Massachusetts alone among America’s colleges opened its doors to women and then not until 1803 could only have reinforced Abigail in her criticism of the country’s educational character. At the same time, she was convinced, as she wrote in 1814, that “There are so few women who may be really called learned,

that I do not wonder they are considered as black swans. It requires such talents and such devotion of time and study, as to exclude the performance of most of the domestic cares and duties which exclusively fall to the lot of most females in this country. I believe nature has assigned to each sex their particular duties and sphere of action, and to act well their part, ‘there all the honor lies.’”

Some lively figures in the eighteenth century, most notably Jonathan Swift, Lady Mary Wortley Montagu, and Hester Thrale, shared Abigail’s concern for the education of women, but none of them could be styled feminists *manqué*. Then, again, in the nineteenth century, Abigail’s great-grandson Henry Adams (1838-1918) was also critical of the education on offer in New England at the time. “The clergy and the bar took charge of politics,” he wrote in his *History of the United States During the Administrations of Thomas Jefferson* (1891);

the tavern was the club and the forum of political discussion; but for those who sought other haunts, and especially for women, no intellectual amusement other than what was called “belles-lettres” existed to give a sense of occupation to an active mind. This keen and innovating people, hungry for the feast that was almost served, the Walter Scotts and Byrons so near at hand, tried meanwhile to nourish themselves with husks.

For the fastidious Henry, no one in Jeffersonian America was being properly educated. However, simply because he recognized that women were particularly deprived of adequate tutelage would be no grounds for our treating him as though he had been a would-be feminist; and the same goes for Abigail. It is true that the poetess and essayist Judith Sargent Murray (1751-1820) advocated for female education in a way that the more sentimental feminists of today might approve, but it is hard to imagine Abigail making the case for the education of women by pleading for poor Eve in such fatuous terms as these. “Let us examine her motive,” Murray wrote in a piece entitled “The Equality of the Sexes” published in 1791. “It doth not appear that she was governed by any one sensual appetite; but merely by a desire of adorning her mind; a laudable ambition . . .” Abigail’s musings on Eve were rather more profound. “Desire and sorrow were denounced upon our sex as a punishment for the transgression of Eve,” she wrote John in 1872. “I have sometimes thought that we are formed to experience more exquisite sensations than is the lot of your sex. More tender and susceptible by nature of those impressions which create happiness or misery, we suffer and enjoy in a higher degree. I never wondered at the philosopher who thanked the Gods that he was created a man rather than a woman.”

It is important to stress that what Abigail understood by education and what many present-day feminists understand by the term are worlds apart. Abigail, after all, prized not only the classical education that most learned men of the eighteenth century would have received in America or Europe but also religious instruction. No one can read her letters—or those of her husband—without recognizing how seriously she took the puritanical charge to steep children in the

Christian virtues. Taking these convictions into account, we can see that Abigail would have had nothing but contempt for the “gender studies” that our own feminists promulgate in a present-day academy antagonistic alike to learning and virtue. In this regard, she was entirely in agreement with her husband, in one of whose letters we can hear both parents’ clear investment in the sort of didactical education favored by most eighteenth-century American Protestants. “The education of our children is never out of my mind,” John wrote Abigail in 1774.

Train them to virtue. Habituate them to industry, activity, and spirit. Make them consider every vice as shameful and unmanly. Fire them with ambition to be useful. Make them disdain to be destitute of any useful or ornamental knowledge or accomplishment. Fix their ambition upon great and solid objects, and their contempt upon little, frivolous, and useless ones.

That John’s son Charles chose to flout these strictures by drinking himself to death does not invalidate the strictures, nor discredit the parents, especially at a time when alcoholism was rampant in America. The prominent historian of the early American Republic, Gordon S. Wood, in his magisterial history of the period, notes that even in “staid New England” there were “more taverns than churches,” and one temperance society in Delaware was not exaggerating matters when it warned its compatriots that “we are actually threatened with becoming a nation of drunkards.”

If one wishes to see the mother in Abigail at her most characteristic, one can revisit her relationship with the handsome, unruly, tosspot Charles. “Praise is a dangerous sweet,” she wrote the boy in 1781 when he was 11. “If it . . . fires your breast with emulation to become still more worthy and engaging, it may not operate to your disadvantage. But if ever you . . . begin to think yourself better than others, you will then become less worthy, and lose the qualities which make you valuable.” Once the boy became a man unwilling to swear off drink, his mother did all she could to dissuade him from his ruinous course. “I have conjured the unhappy Man by all that is dear; Honour, reputation, and Fame, his Family and Friends, to desist,” she told a relative, “and to strive to regain what he was daily losing in the estimation of the World. I have painted before him the misery he was bringing upon himself, his amiable wife and lovely innocent Children, but all has been lost upon him.” When the bleak end came, Abigail wrote one of her most moving letters. “Upon your part, you have the consolation of having performed your duty, no remembrance of any unkindness has deterred your fulfilling it,” she wrote Charles’ devoted, devastated wife.

Even to the last distressing scene, may you be rewarded by a self-approving conscience; until fatal propensities took entire possession of this poor deluded man. He was kind, and affectionate, beloved by all his acquaintance, an Enemy to no one but a favorite where

ever he went, in early Life no child was more tender and amiable; but neither his mind, or constitution could survive the habits he but too fatally pursued, in the midst of his days his course is stopped and his years numbered. May I be enabled in silence to bow myself in submission to my maker whose attributes are Mercy, as well as judgments.

As for the grandchildren left fatherless by Charles' intemperance, they brought out the indomitable grandmamma in Abigail, who would never allow reversals, personal or political, to get in the way of her continuing to do her duty. "The Children will be ever dear to me," she told their mother, "may they be trained up in the way in which they should go. I will supply to them as far as in my power the parent they have lost." For Abigail, especially in light of fallen man's propensity for error, for profligacy, for self-destructive selfishness, for sin, education must always be focused on inculcating moral virtue, and the mother in her would have been confirmed in this belief when she saw her dissolute son's eleventh-hour repentance. "He suffered much, endured much," she told John Quincy afterwards. "His mind was constantly running upon doing justice, and making reparation; early principles, though stifled, now discovered themselves, and Mercy I hope was extended to him; but it rends my heart to think upon the subject . . ."

Since the object of most feminist education is the acquisition and retention of political power, especially insofar as it serves and promotes the interests of the abortion trade, enlisting Abigail Adams as its champion flouts the real woman's real convictions. No one as philoprogenitive as Abigail, or as Christian, would ever have seen abortion as anything other than flagitious. Similarly, she was familiar enough with the nature of political power never to romanticize, or, worse, idolize it, as so many feminists do. "I am more and more convinced that man is a dangerous creature," she wrote her husband in November of 1775, "and that power, whether vested in many or a few, is ever grasping, and, like the grave, cries, 'Give, give!' The great fish swallow up the small; and he who is most strenuous for the rights of the people, when vested with power, is as eager after the prerogatives of government. You tell me of degrees of perfection to which human nature is capable of arriving, and I believe it, but at the same time lament that our admiration should arise from the scarcity of the instances."

This toughmindedness reflects Abigail's critical reading, a reading which actually made her far more discerning than many of her formally educated countrymen, including Benjamin Franklin and Thomas Jefferson, neither of whom was as shrewd as Abigail when it came to taking the measure of those clamoring for the rights of man. One can see this clearly in her estimate of Burke's *Reflections on the French Revolution*. "I have read Mr. Burke's letter," she wrote in 1791, "and though I think he paints high, yet strip it of all its ornament and colouring, it will remain an awful picture of liberty abused, authority despised, property plundered, government annihilated, religion banished, murder, rapine

and desolation scourging the land.” As to Richard Price, the deluded English divine whose embrace of the Revolution inspired Burke’s strictures against it, Abigail was generous but unsparing: “I am sorry that my worthy and venerable divine should expose himself, at this late period of his life, to so severe a censure. I love and venerate his character, but think his zeal a mistaken one, and that he is a much more shining character as a divine, than politician . . .” As for her own countrymen, she was adamant: “I trust that they will not follow France and lop off heads . . .” That one of the heads the Jacobins lopped off happened to be that of her irreproachable friend the Comte d’Estaing gave Abigail’s revulsion an extra horror.

IV

As this shows, the political power so prized by our own feminists was seen by Abigail as something about which we should be wary. She certainly never saw it as the end of education. Intellectually, Abigail might occasionally part ways with her husband. About Samuel Johnson, for example, John was dismissive, calling him a “pedant,” “cynic,” and “monk;” whereas Abigail was discerning enough to recognize that “he was a very accurate observer of Human Life & manners.” Nevertheless, when it came to the evils of the French Revolution Abigail and John saw eye to eye. “Dragon’s teeth have been sown in France and will come up as monsters,” John was convinced, and, certainly, in our time, no monsters have shared that Revolution’s obsession with radical equality more than our feminists. To dragoon Abigail into their number is ahistorical propaganda for a faith she never espoused. But on this matter, as on so many others, it is best to let Abigail speak for herself. To John, she wrote gratefully in January of 1795:

I received by our Thursday post, yours of December 18 and 23 together with the Bennet’s Strictures. You may be sure Bennet is a favorite writer with me for two reasons. The first is that he is ingenious enough, to acknowledge and point out the more than Egyptian Bondage, to which the Female Sex, have been subjugated, from the earliest ages, and in the second place that he has added his Mite, to the cultivation, and improvement of the Female Mind. Much yet remains to be done. There is however more attention paid to the Education of Females in America, within these last 15 years than for a whole century before, and the rising Generation will be benefitted by it. Conjugal fidelity holds the first place in the Rank of Female Virtues, and whilst that Source is uncorrupted, we may hope to see the united efforts of parents exerted towards the improvement and cultivation of the minds and morals of their offspring regardless of the Sex, affording to each an Education to qualify them to move with honour and dignity in their proper Sphere.

The Good Mother

Maria McFadden Maffucci

This is the mother-love, which is one of the most moving and unforgettable memories of our lives, the mysterious root of all growth and change; the love that means homecoming, shelter, and the long silence from which everything begins and in which everything ends.

—Carl Jung, *Archetypes and the Collective Unconscious*

It was a galvanizing moment for both sides of the abortion debate. On January 5, actress Michelle Williams, winner of the Golden Globe for best actress in a limited TV series for her role in *Fosse/Verdon*, accepted her award with a speech praising “choice”:

When you put this in someone’s hands, you’re acknowledging the choices they make as an actor. Moment by moment, scene by scene, day by day. But you’re also acknowledging the choices they make as a person. The education they pursued, the training they sought, the hours they put in. I’m grateful for the acknowledgement of the choices I’ve made and I’m also grateful to have lived in a moment in our society where choice exists, because as women and as girls, things can happen to our bodies that are not our choice . . . I’ve tried my very best to live a life of my own making, and not just a series of events that happened to me. But one that I could stand back and look at and recognize my handwriting all over. Sometimes messy and scrawling, sometimes careful and precise. But one that I had carved with my own hand. And I wouldn’t have been able to do this without employing a woman’s right to choose.

. . . To choose when to have my children and with whom, when I felt supported and able to balance our lives as all mothers know that the scales must and will tip towards our children. Now I know my choices might look different than yours, but thank God or whoever you pray to that we live in a country founded on the principles that I am free to live by my faith and you are free to live by yours.

Just a few days earlier, *People* magazine had broken the news that Williams (whose very brief marriage to songwriter Phil Elverum had recently ended) was engaged to a new beau, Thomas Kail, the director of *Fosse/Verdon*, and was expecting his child. The *New York Post*’s Page Six surmised that the revelation was timed so “Williams’ bump doesn’t grab the headlines” at the Globes.

And yet, it did. The fact that Williams was visibly with child as she stood and praised her ability to abort made for a dramatic moment—all the more so, as several on social media quipped, because she was clutching a “golden idol.”

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Given that she was already a mother to 11-year-old Mathilda, the daughter of Williams's late partner Heath Ledger, Williams's remarks seemed to refer to an aborted middle sibling predating the child now resting securely in her womb. (Or maybe not: Perhaps she actually hadn't undergone an abortion at all, but was seizing the moment to gain attention for her upcoming lead role in the Amazon film *This Is Jane*, about underground abortion facilitators in the 1960s.)

Reactions to the live event were swift. The "Golden" audience gave her a standing ovation. The cameras immediately panned to frantically cheering Busy Phillips, a minor actress who had garnered fame as Williams's longtime "BFF." In the past year or so Phillips has become a poster girl for the Shout Your Abortion movement: She had an abortion at 15, spoke about it on her now-cancelled late-night talk show *Busy Tonight*, started the hashtag #youknowme to represent the "1 in 4 women who have had an abortion," and most recently shouted a frenzied, screechy rant outside the Supreme Court that had social media covering its ears: "I will never stop talking about my abortion or my periods or my experiences in childbirth, my episiotomies, my yeast infections, or my ovulation that lines up w/the moon!"

Predictably, the liberal press gushed over their overnight heroine: "Michelle Williams for President!" headlined the *New Yorker*'s Golden Globes wrap-up. The *Washington Post* lauded Williams's "personal, political and poignant" remarks, and CNN noted her "impassioned speech about reproductive rights."

Interestingly, opposite sides took issue with her avoidance of the word "abortion": An "abortion storyteller," Aimee Arrambide, said in *Rewire.News*, "I wish she had used the word 'abortion.' Not using the word abortion—although it's obvious that's what she meant—perpetuates unintended stigma by using euphemisms." *National Review*'s Alexandra DeSanctis, who dismissed the speech as "rote and predictable," observed: "Far more notable than what Williams said was what she didn't say: 'Abortion.' In a speech of several minutes, Williams didn't once say the word abortion, even as she asserted that, without having had one, she wouldn't be where she is today."

While liberal feminists cheered Williams's standing up for women in the #MeToo era, pro-life feminists saw it differently. Leah Becker Jacobson, founder and CEO of The Guiding Star project, said it well:

If choosing to have an abortion was indeed what made it possible for Michelle Williams to win a Golden Globe, then the entire point of the Me Too movement has been lost. It means that women in the entertainment industry are obviously still expected to meet the expectations of the male dominated field to be available and appealing to men and therefore force their bodies into submission to perform like men's bodies for the sake of career.

Arguably one of the most disturbing aspects of the event was highlighted by Amanda Marcotte in *Salon*: "Just as important, by giving this speech while pregnant, Williams challenged a longstanding stereotype that the anti-choice movement loves to wield:

The utter falsehood that having an abortion is incompatible with being a mother.”

Abortion Is Good Mothering

Part of the campaign to end the “stigma” and “shame” of abortion is the assertion that sometimes the *best way to be a mother* is to abort. Last Mother’s Day, the progressive feminist website Ultraviolet recognized and

. . . celebrated moms who have had abortions. Fifty-nine percent of the women who choose abortion already have one or more children. But when it comes to mainstream conversations about abortion, these moms often go unseen. The stories below represent the resilience of mothers who braved abortion stigma and legislative restrictions in order to do what was best for their families. On this special day, let’s celebrate moms who have had abortions. They, too, should be uplifted and honored on Mother’s Day.

Pro-abortion academics are making the same argument. Consider sociologist (at the City University of New York) Andréa Becker, whose study is titled “‘My Abortion Made Me a Good Mom’: An Analysis of the Use of Motherhood Identity to Dispel Abortion Stigma.” From the study’s Abstract:

Drawing on a sample of 41 abortion stories from women living in Tennessee, I find that women evoke notions of intensive, total, and idealized motherhood in order to manage and challenge the stigma of an abortion. A large proportion of these stories were written by married mothers who emphasized their identities as good mothers and wives. A close qualitative analysis of these trends reveals two dominant forms of recasting abortion. First, abortion is framed as an extension of total mothering to spare an unborn baby from risky health conditions. Part of this includes casting abortion as an often-necessary choice in order for a woman to develop into the perfect mother for the benefit of her children—altruistic self-development. Second, abortion is construed as a form of maternal protection of current children to continue intensively mothering them. Both themes speak to women’s strategies for reframing abortion as a health practice to promote the well-being of children.

Ms. Becker fashioned her study while acting as “research assistant and canvassing trainer” at Planned Parenthood of Tennessee, so one wonders about her pool of subjects; nonetheless, “reframing abortion” as good mothering is a concept besties Michelle Williams and Busy Phillips can get behind.

Deconstructing Motherhood

Besides arguing that abortion can be an act of good mothering, the choice culture also works to reduce motherhood to merely one of several “reproductive choices,” an individual decision fulfilling the particular needs and desires of just *that* woman. This would be laughable were it not so dangerous. From the beginning of time, civilizations and their belief systems—whether pagan, polytheist, or monotheist—have acknowledged the power of women as mothers, the power of fertility. While qualities of motherhood are overwhelmingly presented as positive (nurturing, giving, protecting), cultures have also recognized the destructive

potential of mothering gone wrong or disrespected. Both aspects of motherly qualities are evident in the ways we use the word “mother”: We speak of Mother Earth, a fruitful, nurturing, and beautiful image. Mother Nature shares a similar life-giving image—until a natural disaster like an earthquake or hurricane unleashes her terrifying power. The most dangerous non-nuclear bomb in the world has the nickname “Mother of all Bombs.” (Incidentally, Pope Francis objected to that name for the bomb dropped by the U.S. on Islamic militants in Afghanistan in 2017, saying, “A mother gives life and this one gives death, and we call this device a mother. What is going on?”)

But we recognize the truth of this double-edged potential. Where would great literature, poetry or myth, psychology (Freud, Jung), not to mention true-crime stories, be without the mother figure understood for her power to bless *or* harm the very people—her children—she is meant to protect?

The abortion culture seeks to rob motherhood of its beauty *and* power, and neutralize its danger, rendering it shallow, depth-less. Ms. Williams, beautiful and serene-looking in a dress reminiscent of a Greek goddess, sweetly proclaims gratitude that she has the choice to kill the unborn child in her womb to better pursue her career, and the crowd and media cheer, all the while complimenting her on the good news of her glowing fertility as she now carries a wanted child. In such a setting, “choice” is a sterilized ideal, not a decision a mother makes that leads to the tearing apart of her own child’s bone and flesh.

The shout-your-abortion culture twists reality by proclaiming that sometimes the best mothering for a child is death. It is true that among women who choose abortion, some seem to sincerely believe they are saving their child from a worse fate. There is a basis for that: In the animal world, mothers will sometimes kill or eat their children if they believe they are threatened. In 1997 the pop evolutionary biologist Steven Pinker wrote an essay, “Why They Kill Their Newborns,” for the *New York Times* Sunday magazine. The article was a response to the public’s horror at a spate of teenagers hiding their pregnancies and then killing their newborns. Pinker wrote that we should understand this phenomenon of neonaticide as a natural instinct:

Mammals are extreme among animals in the amount of time, energy and food they invest in their young, and humans are extreme among mammals. Parental investment is a limited resource, and mammalian mothers must “decide” whether to allot it to their newborn or to their current and future offspring. If a newborn is sickly, or if its survival is not promising, they may cut their losses and favor the healthiest in the litter or try again later on. . . . In most cultures, neonaticide is a form of this triage.

“Humans are extreme among mammals”: yet the Judeo-Christian tradition (rejected by atheist Pinker), until recently the core of our civilization, teaches us that although we humans have the instincts of animals, we are able to rise above them because we are rational creatures, made to love and serve God and

be stewards of Creation. Put simply, we ought not to act like animals, because we are not one species among others but a higher species—this understanding is the basis of human exceptionalism, another concept under attack by some contemporary academics, bioethicists, and environmentalists.

In the Old Testament, motherhood was the most cherished and important role for women, and the qualities of mothering were understood to be, in their humanly unattainable perfection, God-like. The famous lines from Isaiah (Chapter 49, verse 15) speak to both the fierce love of a mother and the terrible possibility that even she might reject her own:

Can a mother forget her infant,/be without tenderness for the child of her womb?/Even should she forget,/I will never forget you.

In the Christian faith, Mary, the Blessed Mother, is our most perfect human example of self-giving and obedience to God. As Pope Francis wrote in his *Ave Maria: The Mystery of a Most Beloved Prayer*, she is

. . . the universal Mother who gives total attention, care, closeness to each son, to each daughter. In her we see in fact the heart of a woman that *beats* like that of God . . . wherever a mother is, there is tenderness. And Mary shows us with her motherhood that humility and tenderness are not virtues of the weak, but of the strong; she teaches us that there is no need to mistreat others in order to feel important. . . . Mothers are the most powerful antidote against our individualistic and selfish tendencies, against our isolation and indifference.

Our current obsession with gender as a “construct” or “assigned at birth,” despite biological sex identity, obviously works against the traditional understanding of motherhood. St. John Paul, in his powerful teaching on the Feminine Genius, identifies four characteristics of women: receptivity, sensitivity, generosity, and maternity. All women, he said, have in their feminine nature an openness to others; they are naturally created to be mothers, whether biological, adoptive, or foster mothers; teachers; or emotional or spiritual mentors. The great philosopher (now saint) Edith Stein (who took the name Teresa Benedicta of the Cross when she entered the Carmelite order) put this beautifully: “The woman’s soul is fashioned as a shelter in which other souls may unfold.”

I have been talking in this article about how we should understand what makes a good mother, but I should briefly recognize here the Christian view that men are likewise fitted with qualities especially suited to fathers, qualities empowering them as protectors and providers for their families. Unmarried and fatherless men can be called to exercise a non-biological protective and providing role for others; in the case of celibate clergy in the Catholic Church, priests are called to be spiritual “fathers.” Women and men, imperfect humans, are called to aspire to true femininity and true masculinity, to partake in what we can comprehend as ideal mother-ness and father-ness.

Circling Back to the Globes

But this understanding of our natural biological and spiritual roles as women is a far cry from the contemporary culture's view of womanhood and motherhood. Even Michelle Williams, as hip as she is to the zeitgeist, apparently failed to meet all expectations on the evening of January 5, since she confined herself to talking about girls and women. Another "abortion storyteller" from *Rewire*, Jordyn Close, commented: "I appreciated that she used her few minutes to speak about the importance of being able to have choices in pregnancy. I do wish that those with such a large platform would use gender-neutral language because anyone that has a uterus can and do [sic] have abortions." Sounds crazy, right? But Planned Parenthood now uses this language: People become pregnant; people have abortions.

Recall that Williams also stated that "mothers know" the scales "must and will always" tip towards "our children." But they don't, and she herself implied that her scale didn't always do so, that her role in *Fosse/Verdon* was more important than the life of her child. Thousands of times *per day* in the U.S., the scales tip against children in the womb, resulting in their deaths. To claim that this represents good mothering is a grotesque—and lethal—fantasy.

Postscript

I am writing this in the time of the Coronavirus pandemic and quarantine. In circumstances that we could not have imagined a few weeks ago, most American households are required to stay at home; to live, study, play, and work together under one roof. One might say mothering in America has been pushed to its most intense. Mothers who could never imagine homeschooling their children are now required to—as it means assisting their children in adapting to the online learning offered by the schools and keeping them on schedule. There are few escapes—no outings for bowling or movies, no restaurants, no playgrounds or playdates. Housekeeping and cleanliness now can mean the difference between life and death! And a mother's most crucial job, that of keeping her family safe, involves a constant battle to maintain a level head when the news of the virus seeds terror with each news report.

This is a time, we might say, when the whole world is called to have the attributes of good mothers. We are to sacrifice so we can offer protection, hide our fears to offer comfort. We are asked to put aside our ambitions, our self-actualization, and accept losses in finances and jobs, in order to save human lives. We are all to take care of each other, to mother each other in the best sense of the word. Our heroes are not the Hollywood stars, hunkered down in their mansions, but the ordinary people, especially courageous healthcare workers, who sacrifice each day to save others and bring comfort.

BOOKNOTES

THE CHRONIC SILENCE OF POLITICAL PARTIES IN END OF LIFE POLICYMAKING IN THE UNITED STATES

Bianca Easterly

(Lexington Books, 140 pp., 2019, \$85)

Reviewed by Wesley J. Smith

What an interesting idea for a book. Bianca Easterly, a political science professor, undertakes a scholarly treatise tracing the political battles that have roiled policies surrounding issues of death and dying for more than a century. After decades of contentious public debate, the subject should offer a rich trove of material to analyze—ranging from advocacy for infanticide of the “unfit” during the eugenics movement, the founding of the modern hospice movement, the cultural impact of Jack Kevorkian’s assisted suicide campaign, the Terri Schiavo case, and Oregon’s legalization of doctor-prescribed death in 1994, to name just a few. Good grief, with a subject of this magnitude, the problem for the diligent author should have been one of triage, that is, deciding what to *exclude* from the discussion to keep the discourse manageable. Not that you would know that based on Easterly’s meager effort. I am truly sorry to have to report this, but Easterly’s discourse is so shallow, devoid of substance, and stunningly facile—the text of her book barely tops 100 pages—one wonders why she bothered to write it at all. Mostly, she gives brief summaries of events and controversies around assisted suicide and mercy killing that have polarized society, from the early days of euthanasia advocacy in the late 19th century, to the modern movement’s ascension in the 1980s, to the recent innovation of “physician’s order for life sustaining treatment (POLST)” that allows doctors to place forms in a patient’s chart outlining what should or should not be done for the seriously ill in the hospital setting. Astonishingly, she barely explores the substantive arguments favoring what she calls “the right to die.” Even worse, the author’s approach is so myopic that the many and varied reasons for opposing legalizing doctor-prescribed death not only go unexplored, but for the most part unmentioned.

Early on Easterly makes her biases clear by her choice of vocabulary. She writes:

Mindful of the movement’s controversial past [by being associated with the Eugenics Movement] the analysis pays careful attention to the terminology used to describe the act of hastening death by embracing neutral terms such as *physician aid in dying* (PAD), *death with dignity*, and *aid in dying*, as much as is reasonably possible.

Neutral? In what world? Understanding that the side which sets the terms wins the debate, the euthanasia movement has always sought to redefine words

and blur vital distinctions as an advocacy tactic, a point Easterly acknowledges. Whereas terms such as “physician-assisted suicide” or “doctor-prescribed death” are both accurate definitionally and descriptive of meaning, the phrases favored by Easterly are poll and focus-group tested euphemisms that intentionally *deflect* from the reality of the policies proposed by assisted suicide advocates. I mean, if dying from a prescribed overdose is indeed “death with dignity,” does that mean succumbing naturally lacks that quality? If not, the term is essentially meaningless.

Deploying loaded terms is irritating in a book purporting to be an objective scholarly analysis. But it is Easterly’s lack of depth that I found inexcusable. She simply assumes that supporting assisted suicide and the use of POLST orders is the obvious and correct position; however, beyond a few paeons to “choice” and assertions that legalization permits a “merciful and peaceful death,” she offers scant explanation of *why* such a radical change in medical ethics—a clear violation of the Hippocratic oath—is required *at this particular point* in human history.

The question is fundamental. Two hundred years ago, people who contracted bone cancer often *did* die in agony. Tuberculosis was incurable and led to a slow, suffocating demise. People would succumb screaming from serious injuries or burst appendixes. Despite that, there was no concerted drive in those days to legalize mercy killing.

In contrast, today killing is increasingly accepted as an answer to suffering—this, despite the ability of doctors to alleviate agony to a greater degree than at any time in history. That’s a significant cultural change at a time of less “need,” and it would seem to be worth at least one detailed chapter answering the “Why now?” question: perhaps exploring such cultural phenomena as the decline of religion, the increasing dominance of secularist values, the impact of consumerism, changes in family structure, and the breakdown of institutions. Yet, beyond brief discussions of early failed legalization proposals and equally shallow descriptions of later successes, Easterly barely explores the dramatic societal shifts that have transformed our culture so radically, nor why they open the once-locked door to euthanasia acceptance.

Her factual reporting about contemporary controversies is equally wanting. For example, she devotes barely a page to Jack Kevorkian, despite his crucial role in bringing the issue of assisted suicide into popular focus. The author doesn’t even mention Kevorkian’s book *Prescription Medicide*, in which “Dr. Death” explained that his motive was not so much the alleviation of suffering, but an attempt to enable human experimentation on people being euthanized, a process that he called “obitriaty.” That such a ghoul received laudatory media and popular support was a remarkable cultural inflection point worthy of significant reflection in a book dedicated to exploring political and social clashes around the issue of death and dying.

Easterly's recounting of the Terri Schiavo case—perhaps the most culturally explosive death and dying legal controversy of recent decades—is even less satisfying. Many readers will recall that the Schiavo case pitted Michael Schiavo, the husband of a profoundly cognitively disabled woman, against Terri's parents and siblings (the Schindler family), over Michael's request for a court order allowing the removal of Terri's feeding tube so that she dehydrated to death. (I was energetically engaged as an advocate on the Schindlers' side.) Easterly spends all of three long paragraphs on this epochal case. The only reason she gives for the Schindlers' tenacity in their failed effort to save Terri's life is that they were "devout Catholics." No, the actual reason was that they loved Terri deeply and wanted to care for her.

Easterly also gets the legislative history arising out of the case wrong, or perhaps it would be more accurate to state that she recounts it incompletely. For example, she writes that the law requiring federal courts to review *de novo* the Florida Supreme Court order that allowed Terri to be dehydrated was "eagerly" signed by President George W. Bush to "demonstrate his pro-life beliefs." Arguable, but that recounting misses the forest for the trees. What Easterly *fails* to tell readers is that the law in question was passed with *unanimous consent in the United States Senate*, including by such "pro-life" stalwarts as Senators Hillary Clinton (D-NY), Barack Obama (D-IL), Chuck Schumer (D-NY), and Barbara Boxer (D-CA). Approximately 45 percent of the Democratic caucus voting in the House of Representatives also supported the bill. All in all, the Terri Schiavo bill was one of the most bipartisan enactments of the Bush presidency. Yet, in the aftermath of Terri's death, a revised narrative was created that erased the true bipartisan nature of the dispute in which liberals and conservatives could be found on both sides. Surely such a culture-shattering event and its aftermath were worthy of more detailed reflection.

The book isn't entirely useless. Easterly presents some helpful charts on historic cases and the state of the law on assisted suicide as of the date her book was published, and she adequately explains the purpose of POLST orders—while wrongly conflating the refusal of life-sustaining treatment with steps to actively end life, such as assisted suicide and euthanasia. She also notes accurately that Democrats, the white population, and people who are not religious tend to support assisted suicide legalization in far higher numbers than Republicans, people of color, and the religious. But *why* is that so? Where is the sociological research into the cultural forces that have created such a stark values divide within the country?

I could go on, but you get the picture. Easterly has identified a crucial subject. Our ongoing political and cultural struggles over death, dying, end-of-life care, the role of palliation and hospice, advance medical directives, POLST orders, the consequences of legalizing killing as an answer to suffering, the proper allocation of

finite medical resources, the best expression of public compassion in the face of illness or disability, and the like are of tremendous import to the future morality of the West. We urgently need an in-depth historical exploration and dispassionate scholarly analysis to help us understand where we have been and, depending on the policy decisions we make in the next few years, to what destination we might be headed. It's a real shame that Easterly failed to write that book.

—*Wesley J. Smith is a senior fellow at the Discovery Institute's Center on Human Exceptionalism and a consultant to the Patient's Rights Council. His latest book is Culture of Death: The Age of "Do Harm" Medicine (Encounter Books, Revised Edition 2016).*

IRREVERSIBLE DAMAGE: THE TRANSGENDER CRAZE SEDUCING OUR DAUGHTERS

Abigail Shrier

(Regnery Publishing, 2020, 276 pp. \$28.99)

Reviewed by Peter Pavia

From the bottom of the mineshaft of teenage angst, torn by conflicting emotions and under assault by rampaging hormones, an always-vulnerable cohort of the population, the adolescent girl, confronts the question that is as old as philosophy itself: Who am I? With increased and alarming frequency, the answer shouted down from the societal rafters is unswervingly this: You are transgender.

That pretty much sums up Abigail Shrier's introduction to her disturbing new report, *Irreversible Damage: The Transgender Craze Seducing Our Daughters*. And if the title isn't enough to torch emotions, a mere ten or twenty pages of reading will convince anybody that child rearing at our present inflection point of social division and political frenzy, "cultural frailty" as the author calls it, has gone horribly, fantastically awry.

Shrier makes clear that she is not writing about what used to be called, not so long ago, transsexual adults or boys. Her concentration is adolescent girls, roughly ages 11 to 21, who have alighted, seemingly overnight, on transgender identification. This buzzy, controversial self-diagnosis serves as an explanation for all that disturbs their young and developing minds. But nothing, Shrier maintains, could be further from reality. The rest of her book exposes the confluence of actors—from the medical industrial complex to the local school system—that has enabled these girls to arrive at this most illogical conclusion. Conspiracy is too strong a word, but the overlap of elements devoted to promoting the transgender solution suggests that powerful players, unwittingly or not, are acting in concert.

Start with the fact, as the author does, that gender dysphoria is a certifiable mental disorder: a female who feels trapped in a male body, or vice versa. That very real condition used to affect far less than one percent of the population, and the overwhelming majority of instances occurred in males. These boys felt the intense need to express themselves as female from earliest childhood, cross dressing, playing with traditionally feminine toys, etc. And then around 2012—before which, as Shrier points out, there was zero scientific literature studying this phenomenon in girls—the script began to flip to the degree that girls, not young ones, but adolescents, formed the overwhelming majority of these cases. How did we arrive at this point? This is the question *Irreversible Damage* seeks to answer.

At one juncture or another, every one of us has felt uncomfortable in our own body. We're too short or too tall, our ears are too big, we're fat. It is part of the condition of being human. But none are more susceptible to the vagaries of their bodies than adolescent girls. They begin to menstruate, their figures are rapidly and visibly changing, they attract the unwanted attention of adult males. Who could blame them for wishing to avoid this fate?

The problem begins when all of a girl's difficulties, mental—unexplored and undiagnosed psychological struggles—and physical, become centered on the concept of gender; not sex, the biological determinant denoted by chromosomes, but gender, which could reflect a girl's evaluation of her status on a given day. Whether tomboy (a label that has grown hoary to the point of disappearance), non-binary bisexual (neither fish nor fowl), or with a passing (or life-long) same-sex attraction that might (or might not) settle into lesbianism, these kids all seek identity in one or another of the stripes on the ubiquitous rainbow flag, only natural considering the social and cultural bombardment that rains down on them from every quadrant.

The might of the social media “influencer”—and every one of these kids has a smart phone in her hands—is peculiarly septic. Boasting about having a hundred thousand subscribers, a YouTube trans personality who hosts an online tutorial coaches a twelve-year-old girl, word for word, on what to say in her initial interview with a therapist: that she's “always felt different,” or “always knew she was trans.”

Soon the child, affirmed as trans by the therapist, is threatening to hurt herself, up to and including suicide, which the therapist insists is a very real possibility. “Would you rather have a live son or a dead daughter?” That's the way the question is posed. The prospect horrifies almost every parent into capitulation, and the merry-go-round starts to whirl.

It begins with a name change. The child now demands to be called by “his” new name, with the relevant change in pronouns, not to mention the untold hundreds of dollars spent on a new wardrobe. Parents often discover to their

shock that the school their child attends has, without their knowledge or consent, already implemented the change. (Privacy laws, you see.) The brand-new identity is slapped across various social media platforms and the “Likes” skyrocket, along with the de rigueur rah-rah babble from peers the girl hasn’t met and likely never will. Acceptance, encouragement, affirmation: Who among us doesn’t seek these qualities? There is nothing innocent about any aspect of this; it is insidious.

Potential physical harm soon arrives in a plain brown wrapper. Delivered to the house of a friend or some other ally to keep it secret from the parents, it comes in the form of a binder, a restraining garment that flattens the chest with powerful elastic to make the figure appear more masculine. That’s the near term, though the practice may have lasting and destructive consequences on a body that is still developing. From there, it’s a short hop to the holy grail of hormones, specifically testosterone, lowering the voice an octave or two, squaring and fuzzifying the jaw. Presto, instant boy. Once this has been accomplished, the patient can move on to “top surgery.” That’s right, a double mastectomy. Permanent mutilation in the service of gender fluidity.

It would be one thing if these drastic actions brought some measure of peace to these callow, tortured souls, but in fact, the result appears to be the exact opposite. The girls become surlier, angrier, and more alienated from the people who have loved and nurtured them, and who, in nearly every case, have most deeply indulged them along their journey—their parents.

Shrier recounts the anguish of the mothers and fathers of a few of these girls; their pain constitutes the searing heartbreak of this book. One mom, a tireless guardian of her seventh-grader’s physical and mental health, was terrified by her daughter’s sprint toward transgenderism. The girl was prescribed a puberty-blocking chemical, usually a precursor to testosterone, a protocol that can lead to sterility and a heightened risk of ovarian cancer. And yet everyone in her daughter’s corner—the school, parents of other trans kids, the media—was celebrating her “transition.” The mother began to wonder if she wasn’t the one losing her mind.

One dad recalls a vacation with his daughter, who had been receiving testosterone treatments for months. She was being referred to as “sir,” which he found ludicrous. “She’s beautiful. To me, she doesn’t look like anything but my daughter.” When this young woman, who had reached adulthood, went ahead with her scheduled top surgery, her father’s rage turned inward: He considered her transition the major failing of *his* life. Shrier could sense him seething through their interviews, although he conducted himself with dignity and grace. For his wife, the girl’s mother, he felt only pity. His story is moving to the point of tears.

While Shrier’s subject is painfully upsetting, her book is not inflammatory in tone. Her language is not hot. She neither berates nor harangues any of those

involved in the transgender enterprise; she treats her interview subjects with respect. The author has received a fine legal education, and it shows in her reasoned, persuasive arguments, her reliance on the truth. There is, she promises, a way back, and an entire chapter is devoted to these hopeful measures.

For example, it's possible for parents to stay connected with their daughters who have been seduced by the transgender craze, to embrace the child while rejecting the ideology. Support groups such as FourthWaveNow have formed to help counter the trans movement. Love these girls, the author urges. Protect them. "Don't be afraid to admit," she says, "it's wonderful to be a girl."

Today, a person who receives a statuette for playing make-believe is hailed for giving a performance that is "brave." Brave about what? Authentic bravery is marching into the teeth of scorn and contempt, of ridicule and the threat of professional ostracism, armed with nothing but the truth. Abigail Shrier, an adversary of the outrage mob, sub-category transgender, has written a brave and truth-filled book. Having picked a fight with powerful forces, she will need all of the courage she can muster going forward.

—*Peter Pavia is the author of The Cuba Project and Dutch Uncle, a novel. His work has appeared in the New York Times, GQ, Diner Journal, and many other publications.*

ABORTION UNDER STATE CONSTITUTIONS: A STATE-BY-STATE ANALYSIS

Third Edition

Paul Benjamin Linton

(Carolina Academic Press, 2020, 569 pages, \$95)

Reviewed by John Grondelski

Paul Linton's authoritative compendium of state constitutional law relative to abortion is now in its third edition (*Abortion Under State Constitutions* was originally published in 2008. A second edition appeared in 2012). It comes at a timely moment: With the possibility that the U.S. Supreme Court may use *June Medical Services v. Russo* as a vehicle to modify *Roe v. Wade* (410 US 113) and *Casey v. Planned Parenthood* (505 US 833), the focus of abortion policy may again shift back to the states.

In general, proliferators would probably prefer to see abortion policy determined by state legislatures (except, perhaps, in those 19 states whose legislatures are under Democratic control, where that party's fealty to abortion absolutism could lead to efforts "to codify *Roe v. Wade* into law"). Still, they should not forget

that each state has its own constitution and courts to interpret it. Proponents of abortion, who have largely managed to sustain *Roe* through resort to the federal judiciary, will likely also seek sanctuary in state courts when they lose the battle of public opinion in the political branches. That proliferators should not underestimate this threat is illustrated by *Hodes and Nauser v. Schmidt* (440 P.3d, 461), the 2019 Kansas Supreme Court decision that found a right to abortion under that state's 1861 constitution.

Because *Roe* and its progeny federalized American abortion policy, comparatively less attention has been devoted to abortion skirmishes involving state constitutions. In the eight years since Linton's second edition, however, there have been interesting developments (p. xix), especially in Kansas and Iowa.

Kansas and Iowa have long been bastions of opposition to abortion, utilizing whatever space was available under *Roe* and *Casey* to promote pro-life policies. State supreme courts, however, have wrung a right to abortion out of each state's constitution. The *Hodes* decision is similar to *Roe* in having discovered support for abortion in the language of the constitution while utterly ignoring the document's history and state law, both of which have been consistently pro-life since Kansas's territorial days in the 1850s. In *Planned Parenthood of the Heartlands v. Reynolds* (915 NW2d, 206), the Iowa Supreme Court struck down a waiting period prior to procuring an abortion, claiming it was a violation of due process and equal protection clauses in the state's 1857 constitution.

Not all state-level news was pro-abortion. Although the Oklahoma Supreme Court has nullified some of that state's laws and citizens' initiatives on abortion, it has taken care to do so on federal constitutional grounds, prescinding from whether anything in these efforts also offended state constitutional provisions. Linton also notes (p. xix) how amendments to state constitutions overturned state court rulings that struck down various restrictions on abortion (Tennessee) or compelled state financing of abortions (West Virginia). Alabama proactively made clear that its constitution neither "secures [nor] protects a right to abortion or requires the funding of an abortion" (p. 32).

Other abortion litigation noted in this book includes ongoing state constitutional disputes over parental consent statutes in Florida and Alaska. Alaska's Supreme Court has doubled down on defending abortion, while the Florida legislature passed a parental consent bill this past February, one which, if challenged, is expected to be upheld in state courts.

Linton treats each state, chapter by chapter. Where litigation has ensconced a "right" to abortion under state constitutional provisions, the foundations of such claims are examined. Where state courts have not yet read abortion rights into state constitutional jurisprudence, Linton examines constitutional provisions typically employed to ground such claims, observing on the basis of state precedent whether claims asserted under those provisions would likely succeed

or fail. Each state's chapter begins with a quick summary of whether there are any state constitutional impediments to limiting abortion should *Roe* and *Casey* be modified.

In the concern over the future of *Roe* and *Casey*, some states have sought to "protect" those decisions by writing their essential license into state law and/or repealing any restrictive anti-abortion statutes still on those states' books. Of the 19 states currently under Democratic legislative control, six (California, Massachusetts, New Jersey, New Mexico, New York, and Vermont) already treat abortion as a protected right under their state constitutions. Linton observes that, in the remaining 13, state supreme courts have not addressed the question of abortion as a state constitutional right and, based on state precedent, probably would not (except in Hawaii) find one. Whether legislatures in any of that baker's dozen might try affirmatively to create such a right (or, in the case of Rhode Island, to remove the state constitution's declaration that there is no such right) is an open question. If the U.S. Supreme Court modifies *Roe* and *Casey*, that may change, although the probable first-line effort would be to "find" an abortion "right" in state constitutions. That will make this authoritative reference book a valuable *vade mecum* in coming years.

While the author might argue it does not exactly fit, I would have welcomed an additional chapter—perhaps as an appendix to this book—examining the potential impact of state Equal Rights Amendments (ERAs) on abortion policy. Linton explains, for example, how a state ERA was used by the New Mexico Supreme Court, in *New Mexico Right to Choose NARAL v. Johnson* (975 P.2nd 841) to require the state to pay for abortions under Medicaid (pp. 304-306). Given the current quest to treat the long-dead federal Equal Rights Amendment as still capable of ratification and inclusion into the U.S. Constitution, prolifers need as much analysis as possible about the possible influence the ERA could have on federal abortion policy, especially as a possible vehicle to keep *Roe* alive.

Just as *Roe*'s elevation of abortion policy to the federal level at first caught prolifers off-guard, having been previously focused on fighting abortion state by state, so *June Medical Services* again in some ways threatens prolifers by driving abortion policy back to states where, because of the concentration on federal pro-life policy over the past nearly half century, they may find themselves in some states organizationally attenuated. In the future, prolifers will find works like Americans United for Life's annual *Defending Life: America's Pro-Life Playbook* (an annual compendium of pro-life state legislative action, along with model pro-life legislation), and Linton's masterful scholarly treatment of abortion as an issue of state constitutional law, essential companions. Most highly recommended.

—John Grondelski (Ph.D., Fordham) is former associate dean of the School of Theology, Seton Hall University. All views expressed herein are his alone.

FROM THE HLR WEBSITE

CORONA TIME: NOTES FROM MY NEW YORK CITY BLOCK

Diane Moriarty

After a powerful storm in Manhattan the streets are littered with “dead umbrellas.” Those ubiquitous five-dollar black bumbershoots, hawked on every street and for sale in every corner store, are now collapsed like fallen, scattered bats, their wings buckled and askew, their hook-shaped plastic tails protruding. With the onslaught of Covid-19, the streets are now littered with discarded latex gloves—a scene resembling marine life, like squid or baby octopi.

The panhandlers have organized. On the corner, there’s a sign taped to a street lamp urging people to: “SHARE YOUR CHECK—Give generously to NYC panhandlers.” Ambitious, but I suspect it’s mostly the dearth of trusting tourists that’s causing their loss of revenue. Unfortunately, they seem to have organized in other ways as well. Working as a tag team, two men without face coverings idle in front of a store, standing too close to customers waiting to enter, eyeballing the owner inside. Contribute or else? And there is this: A man walks down the street eating take-out food, bumps shoulders with a well-dressed passerby, “drops” his food on the sidewalk, complains loudly, and the mark apologetically gives him money to replace the lost meal. If you walk past the same spot ten minutes later, you will see the whole scene play out again. (Almsgiving, however, is important. The New York City food pantries are in trouble right now, so . . .)

I’m walking on the street. A man wearing a mask lifts it up, puts his finger on one nostril, blows his nose onto the sidewalk, then lowers his mask. But at least he was wearing a mask, right? Old habits die hard. When this is all over, what precautions might remain? At my local pharmacy, clear plastic shields have been installed on the counters, separating the clerks from the patrons. Every year we have a flu season, perhaps they should remain up, for everyone’s sake.

The subway is running fewer cars. If a user misses the train there’s a 20-minute wait for the next one. Pictures in the paper show folks jammed in like sardines, so the mayor threatens people with police action for not practicing social distancing! Why on earth are they running fewer cars at a time like this, instead of the full complement so people can spread out? Because they’re low on staff right now. A few years back they experimented with automated trains. Seems like a good time (if possible) to implement them, if only for the duration.

People think of New York City as being enormous. The “Big Apple.” In truth, it’s a gazillion tiny neighborhoods. Within one square block of my front door,

there's a supermarket, pharmacy, fruit and vegetable stand, dentist, library, bank, urgent care center, and corner store. And of those eight locations, six are on my very street; very convenient, and even more so with today's only-essential-shopping warnings. But the City's provincial character makes me reflect on another aspect of New York—its three most prominent politicians and their aspirations.

Bill de Blasio and Michael Bloomberg tossed their hats in the ring for the Democratic presidential nomination, and a drool puddle is forming on whatever desk Andrew Cuomo is sitting at as he salivates over the prospect that Covid-19 might propel him into the White House. But each of these men has something in common. They are all big fish in a little pond. They are all provincial in their own way.

The media focused much attention on Bloomberg's stop-and-frisk policy, concluding that it was racially insensitive policing that doomed his campaign. I don't think so. Voters are concerned about gun violence; the policy—for which the former three-term mayor issued an abject apology—actually might have had national appeal. No. If his campaign had taken off, Bloomberg's real problem would have been his claim that Manhattan, being a "high-end product," that is, a place where wealthy people want to live, deserved to be a priority. After all, there's always the outer boroughs for those who can't afford the high end. So, come sundown, Bloomberg would have all the housekeepers, nannies, clerks, artists, waiters, dog walkers, teachers, cops, and firemen shuffle off to Staten Island or the Bronx. Does this sound like a man with a national vision? Hey, Mike, you can always buy Samoa and make yourself King.

A couple of weeks ago, an evangelical Christian group, Samaritan's Purse, led by Franklin Graham, son of the late Billy Graham, set up a field hospital in Central Park's East Meadow opposite Mount Sinai Hospital on Fifth Avenue. They do this kind of thing all over the world, having, for example, previously treated Ebola patients in Africa and earthquake victims in Ecuador. Today they also have a field hospital in Cremona, Italy. The City helped with logistical support. Then word came to de Blasio that the LGBT community didn't approve because these particular angels of mercy don't believe in gay marriage. Horrified, the mayor chided the volunteer first-responders for not respecting "our values," and made assurances that the situation "would be monitored." We are a city of over eight million people, not all of whose values overlap with the mayor's. Still, municipal muscle was brought to bear lest, in the midst of a terrifying pandemic, this one faction in America's most populous city should feel put out. Is this a man who has his priorities straight? Is that a national vision, or small-town backbiting?

Cuomo is the progressive governor who in 2014 presumed to warn us that New York State is not a place for conservatives! How's that for serving all of

the people? He also announced that he hopes to make New York State the fetal stem-cell capital of the country. Well, after signing into law last year a bill that allows abortion through the ninth month of pregnancy, our boy's well on his way to providing the means for the next round of baby-brain harvesting. Will he want to make America the fetal stem-cell capital of the world? This is a guy with his finger on the pulse of our nation?

Now for some nice news. The daffodils are out. They don't last long, but so gentle and brilliant while they do. I pass some on the sidewalk when I do my essential shopping. They're sharing space with the street "squid," and maybe the jarring juxtaposition is apt for the times. But they're daffodils nonetheless, and, as they don't last long, let's all pray that this crisis won't either.

—Diane Moriarty is a freelance writer living in Manhattan.

LA CORONA: ON THE CALCULUS OF MORTALITY

Stephen Vincent

*For this we put aside our claim on love
Lay waste our little square of common home
Emotion stoked and fearful we refrain
Impassioned, rationed and enthroned alone.*

*Corona is the circle of the sun
A super-nova scourg'd upon the earth
A clash of opposites to life and breath
A new pneuma blown to measure death.*

*For what we lose we may not gain again
The price we pay may be exacting high
In quarters quarantined as others die
Our uttered shudders whisper faint amen.*

These three stanzas, written for this indelible moment, play with negation. No one is quite sure what's happening or what's to come. The first words—"For this"—are left vague for you to fill with your concern. This could be corona-virus itself, or stay-home directives, or public assembly bans, or lack of public worship. It is for this "we put aside our claim on love." What love? Our desire to be Good Samaritans with the sick or to comfort those in their last moments. We lay claim to such love only to be told that it cannot find a place in this pandemic. Rather, the greatest act of charity is to stay six or sixteen or twenty-seven feet away—the distance a cough or sneeze travels increases by the day.

It seems so wrong to the Catholic soul raised on an incarnational faith, a strike against the Christian tradition of caring for the whole person—flesh, blood, and soul. Yet abandon them we must, lest we become a vector of deadly infection.

Then the second stanza: “Corona is the circle of the sun.” Outside of the beer brand or Paul Simon’s section of Queens, N.Y., corona is the outermost region of the sun, the part we see during a total eclipse, when it looks like a golden crown. Now the power of that radiating crown is found in a microscopic virus that does not give light or life but rather takes them from its host. This new “super-nova” (or novel virus) invades the lungs to replace the breath (pneuma) of life with that of death.

“For what we lose we may not gain again” is more of a question. What are we losing and gaining, and at what price? Are we losing freedoms? Are we gaining lifespans? Are we wrecking economies and livelihoods? We lack a scale to weigh, a ledger sheet to figure. Yet we know that the economy is more than money or the Dow. Oikonomia, the Greek source of the word, means “household management,” and we can see the damage to homes and families in the exploding unemployment numbers. Our economy is a web of promise and trust all along the chains of supply and demand, involving people high and low, rich and poor, you and me. There is no telling what a shutdown such as we have now will do not only to bank accounts, but to the veins and sinew of the interlocking households that comprise the body politic.

Common-Good Denominator

There’s an eerie uneasiness about the public portrayal of the pandemic. From the yes-or-no about face masks to the projections of the number of deaths that seem always to be scaled back, what we are told just doesn’t satisfy our desire to know what to expect and what to do next. We’ve never been through something quite like this before and are willing, for the sake of life and health, to accept for now the extreme measures taken by public officials.

But we are living under the regime of administrators trained to think in worst-case scenarios and to seek solutions for whole populations. They speak in means, mediums, abstractions, projections, more than to you and me. We see this in the daily briefings when reporters ask specifics and receive modulated responses designed to stem panic and prevent hoarding. Each one of us must find his own particular good within the general restrictions, though we feel the intended pressure to conform. From the president, to the governors, to the mayors, to the employers, all the way down to you and your neighbor passing in the street—no one wants to be seen as abetting the spread of disease, of being tagged a coronavirus rogue or modern Typhoid Mary. So everyone conforms to the mounting restrictions according to his ability, with some excelling in virtue-signaling.

“The only thing to fear is fear itself” does not apply to our current scourge; fear is the underlying factor in every instruction, so much so that we are told in myriad ways every day that any social interaction, even speaking, could be deadly. In this vise-grip of guilt, those who would emulate the plague-age saints and rush to the side of victims, heedless of their own well-being, are told that such heroism is unneeded in the present model of viral mitigation. Pure though their intention, they may become spreaders of death among the less intrepid.

Be brave, be bold. Stay home and wash your hands.

Sheltered in Place

For a seasoned soul who has aged past the strictures of the Lenten fast, and can work from home happily beside my beautiful wife while our two teen boys take their online lessons in separate rooms upstairs, the enforced enclosure of the corona era is not so bad. Editor-writer-researcher, I often work alone in the normal course of days; cutting out the back-and-forth commute may improve my focus and output. We are blessed in our bunker home, and know it, though I fall within the high-risk cohort of the novel virus.

We know also that death and illness are striking around our little Connecticut haven. We see it reported on our screens, with numbers flashing and adding up to something impossible to ignore. Hourly we can tune into the worried words of nurses and doctors, suited up as though for moon walks, telling of overcrowded ERs, lack of ventilators and masks, and anxiety over getting sick themselves and passing it on to their loved ones. Real heroic people with urgent, heartfelt concerns. We thank them and love them, and will say so personally when this is over.

As Catholics, we suffer without public Mass and the sacraments and have come to rely on EWTN and spiritual communion for sustenance. But I do not understand the canceling of funeral Masses. The precautions of the Church may be prudent, yet I wonder what is so different about this pandemic that we can't even have a small funeral Mass to send off a soul and comfort a family. Have we put such a high value on life at all costs that we neglect to honor and pray for the dead as our Catholic fathers and forefathers had done amid harsh conditions and rapid contagions?

I must express here, however, the highest praise for Pope Francis as he delivered his annual Urbi et Orbi address on March 27—a lone figure in rainswept St. Peter's Square imploring the mercy of God before a miraculous crucifix, and blessing the four corners of the earth with the Real Presence of Jesus in the host. True to his title Holy Father, his words and actions spoke to our common home, our shared humanity, and lifted the spirits of millions across the globe.

Calculated Risk

Yet something grates on this old soul so used to the simple solace of decisive thoughts and actions. There is something abnormal and perhaps unnatural about our chosen path against a pathogen, a strategy of retreat and containment so foreign to the American spirit, at least the spirit we'd celebrated till just last month. What to do when nothing will do but doing nothing?

How do we figure the calculus of risk when there are three ways of working the equation? We have the mathematical calculus that takes the numbers of infected and the rate of spread and projects the end-game fatalities. We also have the moral calculus that weighs the human cost of lost lives and livelihoods to reach a plan of action (or inaction) that falls within the lines of "do no harm" and distinguishes between killing and allowing to die. Finally, there's what the dictionary calls the medical calculus, here referring to the accretion of virus within the body and the shedding of the same into the air and onto surfaces.

The confluence of all three calculi has us stuck in an effusion of uncertainty, hemmed in by lack of knowledge and fearful of action that may lead to a literal dead end.

One last point. With the depletion of medical resources in New York and other hot spots, there is talk of doctors deciding who lives and who dies. In ER triage, that's what may appear to be happening, but not quite. Let's not overestimate the power of MDs nor apply undue pressure as they seek to do their medical best with limited knowledge and resources, as long as they don't treat patients solely according to stage or state in life. Doctors may indeed need to decide who gets a respirator or not, or who gets an experimental drug or vaccine or treatment. But life and death are still very much in the hands of God alone. One patient may die on a respirator and another of equivalent symptoms may survive without one. That life and death are still mysteries should become more, not less, clear in the stress and uncertainty of this pandemic. We are invited to ponder these mysteries more deeply as we embark on a social-distanced Holy Week toward the tomb of Good Friday and Easter's new life.

—*Stephen Vincent writes from Connecticut.*

THE PRO-LIFE MOVEMENT MEETS BIOPOLITICS

Nicholas Frankovich

“We will have to discard simple dichotomies” when the coronavirus pandemic finally subsides, Francis Fukuyama predicts in *The Atlantic*. Let’s borrow that line for a moment and apply it to the pro-life cause. The dichotomy that concerns Fukuyama is between liberal democracies and authoritarian regimes. The one that concerns us in the pro-life community is between the proposition that the sanctity of an individual human life is inviolable and the proposition that it’s negotiable.

We put the highest value on the individual human life as a biological fact. Those with whom we disagree think that as a society we should tolerate, though regulate, the taking of human life—sometimes, for the sake of the common good; other times, for the sake of individual dignity or flourishing. Those who take human life may be other human beings, as in abortion. In the case that demands our attention at the moment, the taker is a non-human organism, the novel coronavirus.

Governments have responded to the threat by restricting our freedom of movement. The economic damage has been severe. The ensuing hardship is to be dreaded, but the decision to accept it as the cost of saving human lives should encourage us. The sentiment that animates us in our efforts on behalf of the unborn and the aged turns out to be mainstream, shared by many who are now singing from our hymnal, though they might skip the stanzas about abortion or euthanasia. New York governor Andrew Cuomo, for example, who has offended us by promoting and even celebrating abortion rights, took to Twitter to affirm in the strongest terms the principle underpinning the pro-life cause:

My mother is not expendable. Your mother is not expendable.

We will not put a dollar figure on human life.

We can have a public health strategy that is consistent with an economic one.

No one should be talking about social Darwinism for the sake of the stock market.

Critics of that message, and of the public-health policy that it supports—a policy of shutdowns, lockdowns, and orders to observe social distancing or to “shelter in place” (i.e., to stay home)—make arguments that are familiar to veterans of abortion politics. Whereas we in the pro-life camp maintain that all human lives are of equal moral worth, those on the other side of the debate tend to speak about quality of life and about (though this is not their word) degrees of life. They feel that the moral weight of killing an embryo or of hastening the death of a geriatric patient is less than the moral weight of taking the life of someone in his prime. Near the beginning and near the end of a natural lifespan,

the life in a person is less a flame than a spark, isn't it? The unborn are immature, and the bodies of the aged are unraveling.

"Obviously it's a lot sadder when a toddler dies in a car accident than when an elderly person with terminal cancer does," my *National Review* colleague Robert VerBruggen observes. "So we might want to measure the benefits of stopping Covid in terms of 'quality-adjusted life years,' especially because the disease seems to fall heavily on the elderly and hardly at all on children." The pandemic has moved some conservative Americans, who happen to oppose abortion, to think in clearer terms along those lines. Their willingness to enter into that kind of calculation is hard to reconcile, though, with the pro-life principle that, to borrow Cuomo's language, we can't put a dollar figure on the value of a human life.

What only yesterday was a clearer dichotomy, between pro-life and pro-choice, has begun to blur. Or the boundaries between the two sides are being redrawn. The pandemic scrambles the terms of the longstanding conflict between different philosophies regarding the value of biological human life—"bare" life, as it's called by some of those who think that Cuomo and other government officials are misguided in their response to the pandemic. Up to now the pro-life movement has concerned itself primarily with the politics of abortion, and secondarily with the politics of euthanasia. We now find ourselves entering the larger intellectual debate that takes place under the banner of "biopolitics," a disputed but unavoidable concept in political science.

—*Nicholas Frankovich is an editor at National Review.*

SINGING IN THE DARKNESS

Tara Jernigan

"Rejoice now, heavenly hosts and choirs of angels, and let your trumpets shout salvation for the victory of our mighty king . . ."

These are the opening words of the Exsultet, the chant sung by the deacon at the Great Vigil of Easter invoking all powers and creatures to praise God, while recounting the story of our salvation through Christ's victory over the darkness of death. Standing by the flame of a single candle, the deacon successively calls on angels and archangels, all earth and creation, the whole church and those gathered on that night, to "sing with me the praise of this great light," which is the Light of Christ.

Whenever I am planning to sing the Exsultet, I feel as if I have entered a strange time warp. While I am still deep in the darkness and deprivation of Lent, my private hours are spent singing of the light. In the lonely church, I stand in

the darkness (figuratively and literally, in order to prepare for the dusky setting of the Vigil itself) and proclaim the light, though no one hears but me. Singing alone in the dark, conversing with the trappings of the faith but with none of the faithful, I often find myself summoning the light to my own spirit, even singing back to my Creator.

The early Church expressed much the same emotional experience in liturgical singing. To sing was to be in harmony with the universe, bringing the human person into tune with songs sung by the stars and the planets themselves.¹ C.S. Lewis offers a simpler view of the same notion when, in *The Magician's Nephew*, he presents the great Lion singing all creation into existence, and, one by one, all creation returns his song.²

As the world scales back on its gatherings in response to the ever advancing coronavirus, which seems to many to be our present darkness, I am preparing for an Easter Vigil that looks doubtful. Being a nervous singer, I have already begun singing those old familiar words, which stand even more in contrast with this unexpectedly somber Lent. I truly do not know if, as in years past, I will get the chance to sing to a full congregation, but I prepare anyway. Stopping by the church before the Lenten gathering, alone in the darkness, I have begun to find myself singing to the darkness itself, reminding myself—despite any evil that might creep in—of what has already taken place in the heavens: “This is the night when you brought our forebears, the children of Israel, out of bondage in Egypt and led them through the Red Sea on dry land. . . . When with a pillar of fire, you banished the darkness of our iniquity . . . when all who believe in Christ are delivered from the gloom of sin and restored to grace and holiness of life . . . when Christ broke the bonds of death and hell, and rose victorious from the grave.”³

As I write, we are in the early hours of that night. We have watched and waited as a virus that we do not fully understand has slipped across borders and now approaches our own neighborhoods. For some, it has already arrived. Anxiety has gone before it. Church leaders have met to ask the hard questions about how best to protect the most vulnerable among us, how to stay at our posts and provide sacraments and care, how to best comply with government requests and medical wisdom. We have begun to ask what will become of us, as our clergy step up to the front lines of pastoral care, and as some inevitably face quarantine and illness themselves. We have made immediate plans, but we may not all have made contingency plans. As you read this, my words may seem quaint, or perhaps overblown. I do not know which.

It is in that darkness I sing. We, the Church, are now at a tipping point. The early Church was known for its care of the sick in times of plague. While those who were able to do so ran from the darkness, the Church ran into it. Today, we have hospitals to attend to the sick, but the Church must not become complacent

about caring for the most vulnerable, whether they be spiritually or physically vulnerable.

The world, of course, will be watching. What is in our hearts will show for all to see. I am reminded of Queen Esther, who was placed in her own darkness for exactly that moment in which she would risk her life to save her people. I am reminded also of Ephrem, the fourth-century deacon known as the “Harp of the Holy Spirit,” whose poetry ascended to the heights of heaven, but who died caring for the sick in his plague-ridden town.

As the witness of saints and patriarchs bears down heavily upon us, we swallow our own anxieties and attend to others. As the darkness closes in, we hold fast. And we wait. The letters have been written, unnecessary gatherings have been cancelled. As the virus inches nearer, we watch the news with everyone else. We pray, and we listen. Already most of us are weary.

Nonetheless, we sing in the darkness. For on one other night, a night when the darkness itself was complete and the stone had been rolled over the doorway, another voice rose up and sang: “This is the night of which it is written, the night shall be as bright as the day.”

It does not matter if I sing those words in public or not. I sing because He sings.

NOTES

1. Boersma, Hans. *Scripture as Real Presence: Sacramental Exegesis in the Early Church*. Baker Academic, 2018, p. 143.
2. Lewis, C.S., *The Chronicles of Narnia*. New York: Barnes & Noble, Inc, 2009, pp. 61-62.
3. All quoted liturgical text is from the *Book of Common Prayer* 2019. Anglican Liturgy Press, pp. 583-4

—Tara Jernigan is a vocational deacon in the Anglican Church in North America. She teaches Biblical Languages to high school students at Veritas Scholars' Academy and serves as an adjunct instructor for Trinity School for Ministry. Tara and her husband have two teenagers and one adult son.

COVID-19 AND ABORTION: WHY ARE WE CONCERNED?

W. Ross Blackburn

I write this from my home in North Carolina, not having seen (in person) anyone outside of my family (except the postman) for almost two weeks. Our governor has issued a stay-at-home order for April. Like many other places in the country, most everything here is shut down, with the exception of businesses deemed essential. Many are at home reading about how to stay clear of Covid-19. All hands are on deck. We know the danger and are taking it seriously.

Well, almost everyone. Some, deemed unlikely to die or have serious complications from the virus, have been a little harder to persuade, as the pictures of packed Florida beaches at spring break attest. One part of the problem is the sense of invulnerability often found in the young. Another is that many people haven't appreciated that should they contract Covid-19, while they may be fine, they could still endanger others with whom they come into contact.

Which leads to a question I have asked myself: Why hasn't abortion gripped the country as Covid-19 has? Has abortion ever gripped the country as Covid-19 has? The most ominous projections of the death toll from the virus approximate the number of deaths each year from abortion. From another angle, the number we have lost in the last two months to Covid-19 is less than the number that we lose in two days to abortion. Yet life under abortion has gone on normally for close to fifty years, with only few on deck—a relative handful of devoted people working to see those numbers drop. Even while we admit we don't like it very much, the truth is most of us are largely unconcerned with abortion numbers.

Why?

Perhaps it is because abortion threatens somebody else. No one reading this—indeed no one capable of reading this—needs to fear he or she will be slain in the womb. Those who have survived birth are (in a manner of speaking) immune to abortion. That threat has passed. We are, of course, vulnerable to a whole host of other dangers, Covid-19 being one of them, dangers that understandably and rightly call for our attention. Those who are vulnerable to abortion, the unborn themselves, know not their danger (the death rate for those who inhabit the womb is roughly 25 percent higher than the projected 1-2 percent death rate for Covid-19) and would be unable to cry out for themselves even if they did. In many cases, their existence is not even known by others.

But we know what is happening. Perhaps as a country, we are more like those careless spring-breakers than we'd care to admit. The Bible calls it sin—the attitude that life is all about me, lived without concern for my neighbor. It is tempting to ignore things that do not threaten me personally, particularly if they impinge on how I want to live.

The lessons to be learned from the Covid-19 crisis are legion, if we pay attention. We are becoming aware of how vulnerable we really are, not just to disease, but to life apart from one another. I need to work, and I need my neighbor to work, because I depend on him and he depends on me. And I also need my neighbor to look out for me when I cannot work. And vice versa. Some things don't change much. We may appear to be self-sufficient, but we are as dependent upon others as we have ever been, even as far back as the womb. Recognizing our mutual dependency matters.

If we learn anything during this time of difficulty and danger, hopefully it will be that we are our brother's keeper. And learning this, perhaps we will also realize that our neighbor is not just the elderly woman next door, but her great grandson (the unborn child we may never meet), and her granddaughter, who is agonizing over his presence.

—Rev. Dr. W. Ross Blackburn has been Rector of Christ the King, an Anglican Church in Boone, North Carolina, since 2004. His column on the Human Life Review website, A Pastor's Reflections, is an ongoing meditation on how the transgression of abortion hurts not only individuals but the culture itself. He and his wife Lauren have five children.

OUR LIVES AS UNCONTROLLED EXPERIMENTS

Ellen Wilson Fielding

Our fickle age usually welcomes the new, the original, the untried. But no one I know places the “novel virus” Covid-19 in a happy category, and rightly so. The pandemic has led us to live—and sadly in some cases, end—our days in modes novel to us, but to paraphrase Yeats, with this virus “a terrible newness is born.”

Meanwhile, researchers and doctors all over the globe race to find methods and treatments to ameliorate the virus's symptoms and effects, test the extent of its spread, and ultimately move us beyond its malevolent reach through a vaccine. And that means most of us daily read and view and hear accounts of the scientific method in action—for example, testing the efficacy of treatments already prescribed for other ills, such as last week's frontrunner, the newly promising Remdesivir, or evaluating the rates of false positives and false negatives of various virus or antibody tests. As a result, many of us now semi-knowledgeably pontificate about virus replication, testing parameters, and why it is necessary to subject vaccines to a time-consuming series of trials. After weeks of such online education, although I don't know much about how the kids' remote-learning grasp of STEM (science, technology, engineering, and

math) subjects is going, the medical and chemistry education of news-chasing adults is proceeding apace.

According to the scientific method, you learn what works and what doesn't through experimentation. Ideally, you set up a control group and an experimental group, and compare outcomes to gauge the effect of the variable you are studying (say the vaccine) on the fortunes of the experimental group. In medical science, to sidestep the placebo effect and other factors related to the researchers' inherent biases, the purest type of experiment is a double-blind study, where neither the researcher nor the subject knows which persons are actually receiving the studied intervention as opposed to receiving a lookalike that should have no effect.

Recently, the abortion-related Covid-19 pandemic controversies erupting in some states led me to meditate upon the scientific method and its strengths and limitations. Because of the strain to our healthcare system, states with many Covid-19 cases have forbidden elective or relatively minor surgeries until local manifestations of the pandemic calm down. The question then arises (not to proliferate, of course, but certainly to Planned Parenthood) whether abortions qualify as necessary medical procedures. Only a small percentage of abortions are performed even ostensibly for the health of the mother, though many expectant women in crisis would argue that their emotional health would be adversely affected by bringing the baby to term, or that the child's projected poor quality of life makes death in the womb preferable.

But science, purely as science, has nothing much to say about such issues. In fact, it is of little use in determining in general how human beings should act—that is, how they are to make prudential judgments about what would produce the happiest result and how they are to make moral judgments about what would be the right thing to do.

One of those feel-good we're-all-in-this-together TV network ads recently pronounced that we all need to seek the greatest good for the greatest number. I think the network's intended message was along the lines of temporarily sacrificing our mobility and personal liberty to protect vulnerable people from infection. The speaker may also have been contemplating triage decisions: Who gets the ventilator, and when should you pull it out to move on to a more promising candidate?

Regardless, it seems as daft a statement as it did when I encountered it as a student in Intro Philosophy. First, because it glides over what any of these terms even mean—greatest material good? Greatest psychological or emotional good? Greatest good in duration or intensity, or in hierarchy of value? But beyond all that, the statement assumes we know, as we do not with any certainty know, which decisions would create the conditions for the greatest good for the greatest number.

We can't even identify all variables and contingencies, let alone control for them to observe what happens when you vary these few, because we can't ensure that only those few will be varied. Almost 80 years after the Great Depression, historians and economists argue about which actions or inactions were most responsible for setting it off, and which responses might have abbreviated its duration or better moderated its intensity. Nowadays, as we know all too well, we grapple with dozens of models of the course that Covid-19 is likely to take in our own country and around the world, with varying outcomes partly based on human actions but also based on how very much we don't know about the virus's nature, range of effects, and ability to conceal itself in the asymptomatic.

The obvious lesson for us should be that it's hard to achieve a God's-eye view of human history—that is, one that can account for all occurrences and interactions and their relationships and effects on each other—with perfect and complete intelligence. That is one reason why lovers of sci-fi and superheroes gravitate to the topics of time travel and alternate universes, where you supposedly get to see what happens to people under different circumstances.

The reality we limited mortals live with in our own particular universe, whether we admit it or not, is that, even in our individual lives and our day-to-day decisions, we cannot construct anything close to a controlled experiment that will assure us, on the basis of the outcome alone, of the best choices for our own happiness or that of those around us, let alone the happiness of the human race or Mother Earth. Do we judge by short-term results, or middle-term, or long-term? Do we seek out concentrated happiness, or moderate happiness leavening a lifetime, or a grand finale of satisfaction at the point of death? How do we weight prosperity, health, leisure pursuits, relationships, and career?

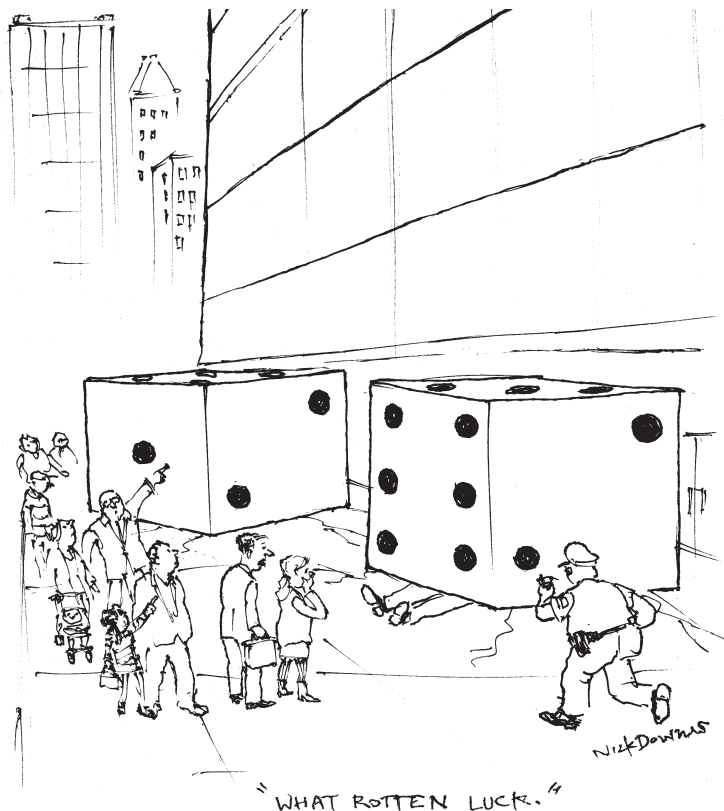
We can rate these conditions any way we choose, but however we do so we should recognize that our individual algorithms are partial and imperfect and do not qualify as “scientific” rankings. Even controlled experiments exploring such decisions can only offer partial and imperfect insights. (And these insights are revealed to be even less complete when we consider the possible effect of our earthly actions on an afterlife into which the laboratory and its methods apparently cannot enter.)

These distinctions between controlled scientific observations and the often wildly uncontrolled experiment called life help explain the place of natural law in ethical decision-making. Flow-charts have their place, and we all gain by learning to exercise prudence and cultivate wisdom. The immediate and foreseeable effects of our actions rightly aid us in navigating prudential decisions about what we should do in a given situation. But these are guides to choosing among non-evil options, rather than rigid yardsticks by which to measure correct decisions. Arriving upon the morally right choice is too important to entrust entirely to utilitarian or consequentialist thinking. Our choices, after all, affect

not only the partly apprehensible fate of ourselves and others but also our own moral character and, many of us believe, our eternal destiny.

So the expectant mother in crisis may legally allow fear and pain to move her to abort her child, but whatever the arguments of those around her, this decision cannot be legitimately validated by science or lifeboat ethics or any other institution or construct based on the false belief that we can trace all consequences and control for all variables. If we make moral decisions purely on our perception of material and psychological consequences, we will never know whether we have acted rightly or wrongly. We cannot see that far or that wide or that deep. If we make the best moral decisions we can on the basis of the moral absolutes our human nature has been endowed with, we will inevitably at times fall into prudential errors, but for the most part avoid instances of doing evil that (as the consequentialists advise us) good may come of it.

—*Ellen Wilson Fielding is a senior editor of the Human Life Review.*



APPENDIX A

[We include here chapter three of *American Restoration: How Faith, Family, and Personal Sacrifice Can Heal Our Nation* by Timothy S. Goeglein and Craig Osten. Mr. Goeglein, vice president for External and Government Relations at Focus on the Family in Washington, D.C., served in high-level government posts for two decades, including press secretary for former Senator Dan Coats of Indiana, special assistant to President George W. Bush, and deputy director of the White House Office of Public Liaison. A former political reporter and student of history, Craig Osten has collaborated with several best-selling authors on more than a dozen books. He has also served in leadership positions with major non-profit organizations for over thirty years. Their book was published last July by Regnery Gateway. “Restoring Medicine and Medical Ethics” is reprinted with the authors’ permission.]

Restoring Medicine and Medical Ethics

Timothy Goeglein and Craig Osten

Nearly four thousand years of Judeo-Christian tradition taught us that every human life is sacred and has inviolable dignity. Reason alone tells us that human life is special and we have a duty to protect one another. And that duty is especially strong when dealing with those in a weakened and vulnerable state. Once we abandon these values—once our society accepts a hierarchy or pecking order of human life—all of the rights and protections that follow from these luminous principles are lost.¹

—Dr. Philip Hawley, hospice physician and former assistant professor of clinical pediatrics at University of Southern California; Keck School of Medicine

I swear to fulfill, to the best of my ability and judgment, this covenant: I will respect the hard-won scientific gains of those physicians in whose steps I walk, and gladly share such knowledge as is mine with those who are to follow.

I will apply, for the benefit of the sick, all measures [that] are required, avoiding those twin traps of overtreatment and therapeutic nihilism.

I will remember that there is art to medicine as well as science, and that warmth, sympathy, and understanding may outweigh the surgeon’s knife or the chemist’s drug.

I will not be ashamed to say ‘I know not,’ nor will I fail to call in my colleagues when the skills of another are needed for a patient’s recovery.

I will respect the privacy of my patients, for their problems are not disclosed to me that the world may know. Most especially must I tread with care in matters of life and death. If it is given me to save a life, all thanks. But it may also be within my power to take a life; this awesome responsibility must be faced with great humbleness and awareness of my own frailty. Above all, I must not play at God.

I will remember that I do not treat a fever chart, a cancerous growth, but a sick human being, whose illness may affect the person’s family and economic stability. My responsibility includes these related problems, if I am to care adequately for the sick.

I will prevent disease whenever I can, for prevention is preferable to cure.

I will remember that I remain a member of society, with special obligations to all my fellow human beings, those sound of mind and body as well as the infirm.

If I do not violate this oath, may I enjoy life and art, respected while I live and remembered with affection thereafter. May I always act so as to preserve the finest traditions of my calling and may I long experience the joy of healing those who seek my help.

—The modern-day Hippocratic oath

Awhile back, Tim spoke to a classroom of Georgetown University undergraduate students on the topic of faith and public life. While he had been to Georgetown on a number of other occasions, this time the class was, in his view, electric. The professor was brilliant, and the students asked probing questions that not only showed they were fully engaged in the topic, but also were insightful in their observations.

As he closed his remarks, Tim noted that for the next speaker, the class ought to think about inviting someone who specialized in the relationship between faith and medicine, i.e., bioethics. Bioethics is a branch of academic study that purposely seeks out the difficult issues of life and death—often under the most trying circumstances—and works to both acknowledge and then deal with the ways in which civilized societies work through the practical and difficult issues of the sick and dying.

With the dawning of the twenty-first century and the resulting rapid advancements in medical science, Tim suggested to the students that the relationship between Christian faith and these advances was more complex and perplexing than at any other time in human history. When Tim made this comment, a young woman sitting in the front row retorted, “Faith and politics, okay. But please, not a lecture on faith and medicine. They don’t go together.”

To this day, Tim regrets not staying to talk further with the student about that comment. On his drive back to the office, Tim kept asking himself what she could have meant by it. It slowly became obvious as he traversed the D.C. traffic that she firmly believed speaking with conviction about how one’s faith merges with his or her practice of medicine was a bridge too far to contemplate.

Tim also realized he had always assumed high school and college science classes included ethics discussions. But the student’s comment forced him to reconsider that assumption. Was it possible American students were simply not being asked to consider the relationship between science and ethics, let alone science and faith?

We live in a day of rapid medical advancements that, on one side of the equation, allow people to live longer and more fulfilled lives. This is a wonderful thing. However, these advancements also have a dark side with legalized abortion and physician-assisted suicide, which make it easier to take life prematurely at its beginning and near its end. Added to that are issues such as human cloning, where man is seeking to replace God as the author and creator of life. And the result is a thorny thicket of issues with which the faithful healthcare professional who believes in *imago Dei*—that all men are made in the image of God—must wrestle.

Several years ago during Craig’s annual wellness visit, his doctor mentioned a dilemma he faced the day before. The doctor, a committed Christian, had a teenage patient

come to him with one goal: to receive a referral for an abortion. The doctor explained as kindly as he could that he could not give her the referral, as he could not participate in any way in the taking of an innocent human life.

The teenage girl stalked out of his office, angry that she did not get what she wanted. She immediately went on Yelp and gave this highly competent and respected doctor a scathing review. While her words were upsetting to him and he was saddened to see his professional reputation unfairly attacked, this doctor knew he did the right thing. Conviction made it possible for him to have peace about his decision—even knowing the review could adversely affect his practice.

Unfortunately, many health professionals face ongoing pressure to violate deeply held beliefs about the sanctity of human life.

Bioethicist Wesley Smith, senior fellow at the Discovery Institute's Center on Human Exceptionalism, writes, "The medical and bioethics establishments and the international abortion lobby want to drive pro-life and Hippocratic Oath-believing doctors, midwives, and nurses out of medicine." He adds the authoritarian tactic being used to accomplish this is to wipe out medical conscience—the civil right to choose not to participate in legal medical procedures when an individual has a religious or moral objection to them.³

Smith goes on to cite international examples of this, such as a law in Victoria, Australia, requiring doctors who are unwilling to perform an abortion to provide support nevertheless through procuring an abortionist for the patient—the dilemma Craig's doctor faced.

He also cites another law in Ontario, Canada, involving assisted suicide that requires physicians to perform euthanasia or refer someone to a doctor who will—a law upheld by a Canadian court that acknowledged it violated the physicians' rights under the Canadian Charter of Freedoms to "freedom of conscience and religion."⁴

According to a report titled "Unconscionable: When Providers Deny Abortion Care," abortion and euthanasia advocates should require those who object "to justify their positions and to perform an alternative service." It continues, "Similarly, they should assume responsibility for the burdens caused by their refusal to provide services for their patients, their peers, and the health care system by providing adequate and timely information and referrals to women, and by performing extra duties to relieve their non-objecting colleagues."⁵

Smith concludes:

The drive to destroy medical conscience seeks to transform abortion into a positive right, which would require the state to guarantee access. The only effective way to that is to coerce doctors to do the deed . . . the struggle over medical conscience will ultimately determine whether doctors, nurses, midwives, and pharmacists will retain their freedom, or be required by law to hew to secular progressive values as the moral price of obtaining—or keeping—a professional license.⁶

Several years after his lecture at Georgetown University, Tim spoke with a young woman in St. Louis who shared that for her entire life, she aspired and worked to become a nurse in a major urban hospital so she could treat the whole person—medically, emotionally, holistically, and spiritually.

After years of hard work, she finally achieved her goal, but just days before starting her new job, her manager told her under no circumstances could she ever discuss her faith with patients or their families.

In other words, this young woman learned she would not be allowed to bring her whole self—with all of her passions and convictions—to her job. Part of herself, possibly her very core, had to stay at home. The very motivation—to be Christ to her patients—that inspired her to work so hard and to pursue her career was being taken away to be replaced by a clinical mentality that did not take the welfare of the whole person into account.

The truth is, in America today, health care professionals like this young nurse in St. Louis are being told when they enter their profession that they must check their faith at the door. But that does not need to be the case.

So how can faith and the practice of health care be reconciled? As Tim thought more and more about this relationship, his mind took him back to Georgetown University and to Dr. Edmund Pellegrino, considered to be one of the founders of bioethics.

From 2005–2009, Pellegrino served on the President's Council on Bioethics. Before this appointment, he served as the director of Georgetown University's Kennedy Institute of Ethics and as the founder of the Center for Clinical Bioethics there, which was renamed in his honor. Pellegrino authored more than 600 published articles and chapters in medical science, philosophy, and ethics. He also authored or co-authored twenty-three books, and his research interests included the history of medicine, the philosophy of medicine, professional ethics, the patient-physician relationship, and biomedical ethics in a culturally pluralistic society.

Pellegrino previously served as the president of the Yale University-New Haven Medical Center. It was there he began teaching some of the first medical school courses in bioethics in the country. Thanks, in part, to his efforts, every major medical school in America has an ethics requirement for its graduates.

Pellegrino summed up his view on bioethics best when he said, "Medicine is a moral enterprise and if you take away the ethical and moral dimensions, you end up with a technique. The reason it's a profession is that it's dedicated to something other than its own self-interests."⁷

From that statement, it is clear Pellegrino knew ethics, rooted in faith, must be part of a physician's training. Otherwise, the doctor has no purpose and there is little to differentiate him or her from an automobile mechanic who replaces or repairs aging parts. He recalled that when he was in medical school at New York University in the 1940s, a typical ethics requirement took about two hours. There was no specific course. To him, that was not acceptable. There was no way a physician could learn how to make informed decisions about life and death in the amount of time it takes to watch a movie, so he pioneered a better way forward born of his moral imagination.

He was unique and indispensable in the field because he was both a doctor and a philosopher. As mentioned earlier, he wrote or co-wrote numerous books and articles that looked at the deeper issues beyond just medicine. As such, his research demonstrates an ongoing passion for exploring the ethical and philosophical dimensions of health care in an era when medical professionals acquired the ability to lengthen or shorten

human life through science in a manner unparalleled in history to date.

When he passed away in 2013 at the age of ninety-two, he left a legacy of a sixty-seven-year marriage to his wife, Clementine, seven children, two grandchildren, and a great-grandson as a testament to the circle of life. His path-breaking book *A Philosophical Basis of Medical Practice* will continue to be read and studied for years to come, as its words are derived from the pen of a man with a fertile mind and spirit. His was a life well-lived.

Upon his passing, Maggie Little, the current director of Georgetown's Kennedy Institute of Ethics, said, "Those who know his work know he was an icon of bioethics. Those who had a chance to talk with him will know he was also one of the most humble and kindest of men." Dr. G. Kevin Donovan, director of the renamed Edmund D. Pellegrino Center for Clinical Bioethics and a pediatrics professor at Georgetown University Medical Center, said, "As a founding father of modern bioethics, he has had an immense effect on students, residents, and practicing physicians. He taught virtue ethics and personified it in his actions. He always recalled our attention to the bedrock of medical practice, the primacy of the doctor-patient relationship."

Yet for all his achievements in academia, Pellegrino was not simply a philosopher with his head in the clouds. What fascinated him was the point at which ideas and theories impacted specific, real-life medical situations. He was a clinician at heart, but he understood the reality of decisions being made in the clinic tracing their roots to the university, the classroom, the philosophical discussion about human life and its value, and ultimately to the metaphysical convictions in the doctor's soul.

He once told a student, "In a philosophy class, you can argue, 'On the one hand, this, on the other, that.' In medicine, you've got to take a position. And there are always conflicts, conflicts of obligations. You've got to resolve them. That's what medical ethics is all about."⁸

While the idea of ethics goes back to Hippocrates, it was Pellegrino who insisted upon a firm foundation upon which ethics must be built. He knew ethics built on shaky metaphysical ground could lead to horrific consequences—consider, for example, the career of Dr. Josef Mengele in Nazi Germany. Mengele's skill as a doctor and his grasp of the scientific principles behind medicine were objectively quite sound, but his ethical system was based on a fundamentally evil metaphysical conviction that history was moving inexorably toward producing a "master race."

This meant Mengele's ethics, like those of his fellow Nazi leaders, often assumed "Might makes right" and "The end justifies the means"—the end being the elevation of the German race above all others. This corrupt framework gave Mengele the rational basis for using his scientific skill not to promote life, but to conduct unthinkable experiments on living people, develop new and chilling methods of torture, and condemn countless men, women, and children to the gas chambers and ovens.⁹

As his earlier statement attests, Pellegrino understood ethics cannot stand alone; it must be connected to something deeper. For him—as for many healthcare professionals, such as Craig's doctor—that "something deeper" is Christian faith and Christ's mandate to "Love thy neighbor."

Pellegrino knew it would be impossible for him to construct one ethical system to

apply to medicine and one to apply to the rest of his life; no human person can bifurcate himself or herself that way without doing serious damage to his conscience and psyche. He also knew from the example of the grievous events of the twentieth century—such as those of Nazi Germany—the importance of finding a solid foundation for ethics. Pellegrino became convinced it was his professional duty to weave his Christian faith into his work as a doctor—not to try to lay it aside. His faith, he came to believe, was far from peripheral to his work as a doctor. It was a central component that enabled him to use his God-given skills for good and not be seduced into betraying his Creator by succumbing to the temptation to use them to promote unjust and inhumane ideologies.

Pellegrino saw no inherent inconsistency between faith and reason. In fact, the two are mutually beneficial in the search for truth. He believed, along with the vast majority of Christian thinkers throughout history, the ability to reason was also a God-given gift—one that can enhance and deepen our faith and our knowledge of God.

He was convinced faith, combined with reason, allowed Christians to formulate principles that gave them guidelines for how to act in specific situations. In other words, he believed faith and reason together led directly to the formation of an ethical system. It was this ethical system, composed of faith-based convictions and rational conclusions from those convictions, which Pellegrino relied upon when he faced major medical decisions in real-life situations.

For Pellegrino, as his colleagues attested, the doctor-patient relationship was foundational and unbreakable. He loved being with his patients and with their families when the tough decisions had to be made. The sanctity of all human life, no matter what stage from birth to natural death, guided him in the way he practiced medicine. He never forgot the idea of the soul. In his words, a physician, “binds himself to competence as a moral obligation [placing] the well-being of those he presumes to help above his own personal gain.”¹⁰

Pellegrino’s most noteworthy achievement and legacy from his service on the President’s Council of Bioethics was his relentless insistence on including theologians in the mix of making major life-and-death medical decisions. He personally ensured the views of Christian health care professionals were not sidelined, either when lawyers and social scientists discussed medical policies at the highest levels or when patients and their families faced critical decisions about life and death.

Finally, he saw the value and utility of the eternal truth that all life is sacred and all men are made *imago Dei*, and he welcomed them into the most difficult decisions concerning life and death. Pellegrino made it clear he opposed abortion,¹¹ euthanasia, and physician-assisted suicide¹² because he believed the taking of innocent human life was a violation of the Hippocratic oath to “first do not harm.”¹³ His interpretation of that oath—like everything else in his life—was rooted first and foremost in his Christian faith, which attributed great dignity to every human life because of each life’s participation in the *imago Dei*. As the field of medical philosophy continues to grow, one of the great questions now before us is whether Christianity will continue to have a central voice in it. Pellegrino showed that our faith in Jesus Christ can and should play a leading role in the largest ethical debates of our times where the very nature of what it means to be a person is at the core of the discussion—human cloning, abortion, genetic

engineering, gene editing, and artificial intelligence, to name just a few.

Another leading ethicist, Dr. Philip Hawley, a hospice physician and former assistant professor of clinical pediatrics at the University of Southern California Keck School of Medicine, concurs. He writes, “If human life has innate dignity and value, if human life comprises universal goods that we must promote and defend, then physicians have a duty to protect every human life.”¹⁴

But unfortunately, modern medicine often does the opposite. Hawley has also written that the “inconsistency of modern bioethics is breathtaking.” He states:

On the one hand, if you want to end your chronic suffering or deal with a terminal illness by committing suicide, today’s utilitarian ethicists will invoke personal autonomy as the guiding principle and endorse your plans. But if you choose to continue living in spite of your suffering or terminal diagnosis, those same ethicists brush aside the notion of personal autonomy, label your request as unreasonable, and conclude that you are sadly incapable of making the “right” choice.¹⁵

New York University philosophy teacher Gerald T. Mundy, writing in the *Public Discourse*, lays out the arguments for why it is incongruent for someone who has sworn an oath to protect life to participate actively in the taking of life. He writes that a good doctor will seek to achieve health and longevity of the patient, instead of trying to hasten death. He adds that a physician cannot truly and whole-heartedly work toward restoring the health of his patient if they know they can simply give up at any time and recommend that the patient choose death, instead of life.

He concludes:

The psychological effect of knowing there is an option of suggesting assisted suicide when treatment becomes difficult will affect even the most disciplined physician. For the physician will always know, when faced with a patient who is difficult to treat or to cure, that there is another choice available. If he is willing to use the assisted suicide option, he cannot be devoted fully to his patient’s life. Physicians who are truly opposed to this choice of ends are the ones who save lives.¹⁶

Pellegrino was one of those doctors. He wrote, “The capacity to make moral judgments, and to be self-critical, is part of being an educated person. That’s what I do with ethics. I don’t set out to make trouble, but, when I do cause a stir, it’s only because I raise questions that strike me as unavoidable.”¹⁷

When it comes to matters of life and death, these questions are certainly unavoidable for us all. Pellegrino gave us all a model to follow. As doctors swear an oath to “do no harm,” we as society must do so, as well, and affirm that all life is made *imago Dei* and should be treated with the utmost dignity and respect, which will be the focus of our next chapter.

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APPENDIX A

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APPENDIX B

[Maria McFadden Maffucci is editor in chief of the Human Life Review and president of the Human Life Foundation. She is also a regular columnist for Newsmax, where the following reflection was published on April 17, 2020 (<https://www.newsmax.com/mariamcfaddenmaffucci/oreilly-flu-ableism-jobs/2020/04/17/id/963316/>). Reprinted with permission.]

Coronavirus Exposes Fixations on the Wrong Priorities

Maria McFadden Maffucci

In an unprecedented moment when much of the world is under quarantine to protect vulnerable human lives, some conservatives are preaching utilitarianism or letting partisan loyalties lead them to denial of the facts.

An egregious instance is former *Fox News* host Bill O'Reilly's recent quip on Sean Hannity's show that people who have died were "on their last legs anyway."

This is an admittedly extreme example of a trending epidemic on the right, in which conservatives persist in disputing the death count by saying that the dead had underlying conditions—the point being, one assumes, to dispute the seriousness of the crisis, get the country back on its feet, and aid President Trump's reelection.

Here in New York, the papers are filled with tragic stories of those who apparently were healthy until the virus struck. Especially heartbreaking are the deaths of the brave doctors, nurses, EMT workers, and grocery clerks who died because of their exposure.

But even if the majority of the dead had "underlying conditions," these "conditions" are on a spectrum from serious to pretty mild.

As I said to a conservative friend who cited hypertension: How many people do you know who are on high blood pressure meds, and are otherwise vibrant and healthy?

Are they near death? Yet they are especially at risk.

For those who did have serious medical conditions prior to contracting the virus, it was the virus that killed them. To discount their deaths is disturbingly evocative of the utilitarianism we conservatives have consistently deplored: that the quality of life of a person determines whether their death means "as much" as a healthy person's.

Former U.S. Education Secretary William (Bill) Bennett stated recently on Fox News that Covid-19 "was not, and is not a pandemic. But we do have panic and pandemonium as a result of the hype of this and it's really unfortunate. Look at the facts."

He goes on to say that the projected loss of 60,000 Americans means that "we're going to have fewer fatalities from this than from the flu."

Well, "pandemic" seems accurate to me, but more importantly, models and projections are not facts in themselves. No one can know now how many will ultimately die.

Most crucially, the projected number of deaths Bennett cites were revised from much higher projections because of all the mitigation efforts, and are based on assuming "full social distancing through May 2020."

How would things be looking if we had gone on with life as usual?
And what is Bennett saying to all the Americans who have lost their jobs?
That the real danger is “hype” and none of the sacrifices were necessary?
I don’t believe that, just as I know this isn’t a “flu.”

The flu doesn’t typically wipe out multiple family members in days.

The flu hasn’t overwhelmed hospital systems, and led to the deaths of otherwise healthy medical personnel.

The flu hasn’t necessitated refrigerated morgue trucks to park outside hospitals for the overflow of corpses. We don’t (yet) have a vaccine for this, and we are only in the beginning stages when it comes to finding effective treatment.

Before the virus hit, those anti-abortion were vigorously fighting assisted suicide and euthanasia laws that would put the elderly and the vulnerable at risk, saying it could lead to health rationing—you know, death panels.

Now some who identify as pro-life are discounting an emergency that is putting those very lives at stake in a newly dangerous way. Look at this report, which says that several states already have policies which would send the disabled “to the back of the line” for life-saving treatment.

The disabled are right to be worried, with some of their former defenders now using “underlying conditions” as a way to lessen the importance of their lives.

We in the anti-abortion movement have been fighting “ableism” in medicine, law, and the culture—decrying the abortion of children with Down Syndrome, warning that legalizing euthanasia will lead, as it has in Belgium and the Netherlands, to involuntary killings of those with cancer, or dementia—we don’t need the sickness of ableism to infect our own movement.

At the beginning of this crisis, I was heartened by the fact that leaders, anti-abortion and pro-abortion rights alike, were begging us to stay home to protect the elderly and vulnerable.

What a powerful and inspiring example to all of the rightness of what we in the movement have been talking about all along: Each human life, of any age and ability, has dignity and value and is worth protecting, even if it means hardship for others.

Now, I fear the Coronavirus is exposing some underlying conditions—preoccupations with power or party, an unwillingness to bear uncomfortable truths—which plague and weaken the anti-abortion movement.



***The staff of the Human Life Review wishes our readers and friends
strength, healing and hope in this difficult time.***

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At the center of the Christianity which America has inherited is the insistence that the life of every human being is a precious gift of God. I have already acknowledged that I can't prove this by any empirical method, but I can affirm with confidence that this doctrine was original to that religion, that it was not there in pre-Christian times. Now I am going to throw all caution to the winds and make a value judgment: I think it is a very good doctrine. Not only has it saved trillions of lives down through the centuries, it has become the keynote of Western Civilization, governing everything from the rules of war (we don't shoot prisoners) to the conduct of our police and our courts.

—George McKenna, "You Don't Have to Be a Christian to Be Against Abortion (But It Helps)"