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Wesley J. Smith reviews *Losing Our Dignity: How Secularized Medicine Is Undermining Fundamental Human Equality* by *Charles C. Camosy*

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. . . Years ago, my dear friend and former boss, the late Father Richard John Neuhaus, founding editor of *First Things*, admitted to being jealous that our *Review* had scored another brilliant article from one of *his* most esteemed thinkers, Professor George McKenna. A regular contributor since 1996, McKenna has done it again—but this time I think he’s even outdone himself! His new essay “The Odd Couple: Freedom and Liberty,” is so marvelous we added extra pages to this issue so we could publish it right away.

McKenna’s spot-on analysis of what our culture values—liberty—versus what it ought to strive for—freedom—is key to understanding how far we have strayed from the Judeo-Christian beliefs and ideals we used to take for granted, prime among them that a person’s true freedom lies in his or her ability to grow in virtue. This is also an important theme in *The Rights of Women: Reclaiming a Lost Vision*, a new book by Erika Bachiochi, reviewed here by senior editor William Murchison. Bachiochi looks back to an early British feminist, Mary Wollstonecraft, whose persuasive case for equal educational and civil rights for women was made so that women would have equal opportunities to *seek virtue* alongside men, a vision distorted by the current women’s movement that belittles women’s connection to fertility to the point that “liberty” to abort has become paramount.

We welcome a new contributor, Randall K. O’Bannon, Director for Education and Research at the National Right to Life Educational Trust Fund, with his article, “Closed Clinics and ‘Reduced Access’ Save Lives.” As of this writing, the Texas Heartbeat Act is saving lives daily—but will it hold? You can read my thoughts on the matter in Appendix A, Edward Short’s profile of the *Review*, “Listening to the Heartbeat of the Pro-Life Movement,” from *The Catholic World Report*; thanks to editor Carl E. Olson for reprint permission. Thanks as well to Edward Mechmann for allowing us to reprint “The Texas Abortion Law Reaches the Supreme Court” from his public policy blog “Stepping Out of the Boat” in Appendix B. And our thanks to *Plough Quarterly* for permission to reprint Ross Douthat’s wonderful essay “The Case for One More Child: Why Large Families Will save Humanity.” Douthat’s newest book, *The Deep Places: A Memoir of Illness and Discovery* has just been released (October 26) by Penguin Random House.

As you will see on p. 48, we have lost a great friend and defender of the unborn, Father Kazimierz A. Kowalski, who died unexpectedly on October 4, three days before our annual dinner, where we expected to see him again in person. Though we mourn his loss, we rest in the faith that his life of virtue is rewarded in eternity. Finally, we are always grateful for Nick Downes’ cartoons, and especially for those he has created—and updated—for us: See the final page of the issue, and thank you for your support of our efforts.

MARIA MCFADDEN MAFFUCCI
EDITOR IN CHIEF



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INTRODUCTION

“It’s a bracing essay,” I told George McKenna after our longtime contributor surprised us with “The Odd Couple: Liberty and Freedom” just as we were pulling this issue together. “Given the road you travel, from Aristotle to Ahmari and French, 8600 words, though more than we usually publish, is brilliant economy.” In a sweeping historical overview, McKenna distinguishes between “liberty” and “freedom,” terms that “are often used interchangeably” even though they “point to very different kinds of behavior, ‘liberty’ referring to morally indifferent choices and ‘freedom’ underscoring the moral significance of one choice over another.” While 21st-century “liberty conservatives” (like David French) insist government practice “viewpoint neutrality” when, for instance, public libraries host Drag Queen Story Hours, McKenna reminds us that “Aristotle’s ethical and political writings never shrank from offering what we call value judgments,” and that “historically, in the West at least,” moral lessons taught in church, but also in the home and school, “were deeply informed by Judeo-Christianity.” Twenty-first-century “freedom conservatives” (like Sohrab Ahmari) believe these drag queen events unsuitable for children—though not for gay bars—and insist, as McKenna puts it, “that on some issues government can—and should—play an activist role in promoting virtue and fighting immorality.” Today, as lockstep leftists—the “enemies of freedom”—occupy establishment pulpits and bully the public, McKenna poses a hard question: “*While fighting them do we also need to fight some of our friends?*” (Friends like David French.)

In Texas, writes Julia Duin in our next article, where public “blowback . . . began soon after *Roe v. Wade*,” citizens are playing an activist role, finding “creative ways to oppose abortion” in government workarounds. Right now, while the country “remains fixated on SB 8 [the state’s Heartbeat law], another anti-abortion initiative is slowly spreading across Texas; a movement that has gone largely unnoticed” but is “nibbling away at abortion by decrees.” Yes, *decrees*. In ““Sanctuary Cities’ Provide Abortion-free Zones,” Duin reports that 35 cities, mostly in rural Texas, have voted in ordinances “to outlaw any abortions within city limits.” Using the “same legal stratagem” as SB 8, “an aborted child’s parents, grandparents, and siblings can sue anyone who aids and abets” in his demise—only the mother is exempt. “Ever since the Biden Administration said they wanted abortion access in every zip code,” the movement’s 36-year-old founder Mark Lee Dickson told Duin, “we’ve seen quite a bit of steam.”

Has the reduction of clinics in Texas (and elsewhere) led to fewer abortions? Yes, says Randall K. O’Bannon in “Closed Clinics and ‘Reduced Access’ Mean Lives Saved.” O’Bannon, Director of Education and Research at the National Right to Life Educational Trust Fund and a new contributor, takes a hard look at the statistics—both national and statewide—and concludes that while “multiple factors may play a role, the past four-plus decades since *Roe* clearly show that the number of abortions has risen when the number of providers has increased—and has dropped once the number of clinics, hospitals, and private abortionists declined.” And while advocates persistently complain that women are being forced to get “later, riskier” abortions, the statistics again, as O’Bannon demonstrates, say something different.

In “The Case for One More Child: Why Large Families Will Save Humanity,” which originally appeared in the estimable Plough Quarterly, Ross Douthat looks at U.S. birthrate statistics and wonders why “more Americans [don’t have] the 2.5 kids they say they want, rather than the 1.7 births we’re averaging.” This isn’t an article about abortion—the word comes up only once—or about “social programs or economic growth or social harmony,” but rather a wide-ranging and thoughtful response to “deeper questions” the declining birth rate evokes in this father of four: e.g., “What moral claim does a potential child have on our society? What does it mean to fail someone who doesn’t yet exist?” Those who know Douthat only from his New York Times columns will find here an accomplished—and plucky—essayist.

Mary Rose Somarriba gave birth to her fourth child in August. In “Another Strike Against Eugenic Abortion” she recalls her 20-week ultrasound appointment last spring, when “a new doctor I’d never met before came in and questioned whether it really made sense to add this latest person to my family.” Yes, there could be a genetic risk of cystic fibrosis, but Somarriba firmly explained that she would have the baby no matter what, even as the doctor “kept pressing the issue.” Genetic testing, she writes, “has become a staple of prenatal care,” but its increase hasn’t “correlated with advances in treatment for prenatal children,” and “the only option many women are offered upon probable diagnosis is to terminate the pregnancy.” (One is reminded that Germany’s eugenic termination program began with its doctors, not its politicians.)

“The human life issue,” observes Connie Marshner in our next article, “could have been the Democratic Party’s for the taking,” but as it turned out, after *Roe v. Wade* “the only senator who would take [it] up was James Buckley—a Republican and a Conservative, no less.” In part two of “How Paul Weyrich Shaped the GOP Agenda” (part one ran in our last issue), Marshner zeros in on “the complicated, multi-step, multi-year process” by which “the Republican Party was dragged kicking and screaming to a pro-life position.” And she details exactly how Paul Weyrich, “the ‘go-to’ guy on Capitol Hill for pro-life activists until dedicated pro-life organizations came into existence,” proved that “being pro-life would not doom a candidate to defeat.” If anything, the opposite.

Will *not being pro-life* doom civilization to defeat? Jason Morgan’s “Who Has the Loneliest Hearts in the Cosmos?” is a thought-provoking essay that makes unexpected and eye-opening connections. Pondering the past half-century of space exploration, Morgan observes that while “not a single [alien] sighting has ever been confirmed,” scientists still persist in “an almost-romantic quest for intelligent life blossoming elsewhere.” The “out of this world,” he writes, is “the world’s most exclusive destination, as billionaires boast of their private space programs,” which someday, they hope, “will ferry the god-like few among us even out to Mars, a New Eden for man’s despoiling.” Meanwhile, on earth, “the mass human extinction event known as abortion—not speculative, but ongoing as we speak—has failed to register much of a response among this rational-minded group” of scientists and entrepreneurs.

In our final article, “Erika Bachiochi Channels Mary Wollstonecraft,” senior editor William Murchison considers *The Rights of Women: Reclaiming a Lost Vision*, “a strong, emotionally temperate, and well-informed” new book by feminist scholar Erika

Bachiochi. The “lost vision” is that of Mary Wollstonecraft (mother of Mary Shelley, who wrote *Frankenstein*), “200 years dead,” but “a kindred spirit” who, Murchison notes, argued in her own book (*A Vindication of the Rights of Woman*, 1792) “for the right of women to exercise their full abilities in the cultivation of virtues that dated at least to Aristotle.” She and several other “movers and shakers of women’s rights” whom Bachiochi also discusses, “were not out to nail down and perfect a woman’s right to follow her bliss wherever it led,” and none of them, he adds, “would have smiled on the extinction of human life” and the “renunciation of motherhood.”

* * * * *

This edition of Booknotes features two review essays: first, W. Ross Blackburn on Fiorella Nash’s *The Abolition of Woman: How Radical Feminism Is Betraying Women*, which, he writes, “isn’t about abortion per se,” but rather “the ways in which our world . . . is seeking to do away with womanhood.” Then Wesley J. Smith reviews *Losing Our Dignity: How Secularized Medicine Is Undermining Fundamental Human Equality* by Charles Camosy, a bioethical “outlier” who “has vigorously entered the public square . . . to defend the equal dignity and moral worth of every human being.” From the Website features Diane Moriarty’s useful primer “*Roe v. Wade* for Dummies,” Fr. Gerald Murray’s “Free Will, Faith, and . . . Abortion?”—a “pastoral correction” to Nancy Pelosi’s definition of Catholicism; Ellen Wilson Fielding on “Waiting for *Dobbs*” and why overturning *Roe* won’t “restore public consensus around the sanctity of human life;” and Tara Jernigan’s “Standing Tall, Feeling Small,” a gem of an insight into the world of the wheelchair bound. We close the issue with two appendices, Edward Mechmann’s legal “explainer” on the two abortion cases the Supreme Court takes up this fall, and Edward Short’s *Catholic World Report* interview with Maria Maffucci in which our editor in chief shares her own thoughts on this abortion fraught season.

And I close here with a mea culpa: In the introduction to the Summer issue, when I wrote that Hadley Arkes’s Born-Alive Infants Protection Act had been “vetoed twice by Bill Clinton,” I was confusing it with Partial-Birth Abortion Ban legislation. “Bill Clinton did not veto that bill twice,” Hadley wrote to me in gracious note, “or even once.” I’ll let him tell the story:

By the time the bill passed, Clinton was out of office and George W. Bush was there to sign it (and invite me to the signing). In fact, it was the concern of Charles Canady to avert a veto from Bill Clinton that moved [him] to cut from the bill the penalties that would have allowed the real enforcement . . . In the Senate the bill was brought to the floor by Harry Reid, with Democrats in control, and it passed by a voice vote without any Democrat voting against. That kind of thing would not happen any longer, for the Democrats have been utterly cohesive, and shameless in voting against the second Born Alive bill . . . But the very purpose of the new bill has been to restore the penalties that had been struck from the original bill—and struck to avert that veto from Bill Clinton.

ANNE CONLON
EDITOR

The Odd Couple: Freedom and Liberty

George McKenna

"My chief hope for the future is that the common people have not parted company with their moral code."

—George Orwell

While serving as Allied Commander during World War II, Dwight D. Eisenhower, later the 34th President of the United States, told his troops in North Africa, "You are fighting for the right to live as you please, provided you don't get in someone's hair." Later in the speech he said, "We are fighting for the liberty and dignity of the human soul."

Eisenhower may have thought the two ends were the same, or at least pointed in the same direction, but there are significant differences between them. The first statement has no moral content and the second is infused with it. Perhaps he thought we can have both, that the two causes can supplement one another if what people "please" contributes to "human dignity." But that is not always the case: People doing what they please can really get into other people's hair, and that produces misery and war. Eisenhower found himself commanding troops in North Africa because Hitler got into a lot of people's hair.

"Liberty" is a term with deep roots in political discourse, especially in Western countries. It is derived from Old French ("liberte") in the 14th century and means the right "to choose," which fits the first meaning defined by Eisenhower. But I want now to call attention to another term often used as a synonym for "liberty." It was not used by Eisenhower in that particular speech, but he might well have used it on other occasions, because we probably all have at one time or another. The word is "freedom."

"Freedom" derives from Old English and meant "power of self-determination." By the late 14th century, it meant "exemption from arbitrary restrictions." Even then, we can see differences in nuance between liberty and freedom, the former emphasizing the "do what you please" qualities and the second carrying a value, i.e., freedom from *arbitrary* control, i.e., control for which there is no moral justification. The terms are often used interchangeably, but they need to be distinguished because they point to very different kinds of behavior, "liberty" referring to morally indifferent choices and "freedom" underscoring the moral significance of one choice over another.

American historian David Hackett Fischer used the two terms as the title of

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a giant 850-page volume published in 2004. Fischer's *Liberty and Freedom* traces their development in American politics from the Revolution to modern times. Here is Fischer's distinction: "Liberty refers mainly to ideas of independence, separation, and autonomy for an individual or a group. Freedom means the rights of belonging within a community of free people."¹ Notice the communal emphasis in "freedom," absent in "liberty." The latter term he associates with separatism, and notes its popularity in the antebellum South. "Only in America was racism linked to a tradition of liberty." Later in the book he quotes a poem by black writer Langston Hughes:

*There are words like Freedom
Sweet and wonderful to say.
On my heart-strings freedom sings
All day everyday.*

*There are words like Liberty
That almost make me cry.
If you had known what I knew
You would know why.²*

Hughes's negative feelings about "liberty" probably came from his experience with Jim Crow laws and customs. Hotel and restaurant managers in the South would invoke "liberty," or similar rights-claims, to justify their exclusion of blacks. More broadly, "states' rights" was an all-purpose justification for racial segregation.

Fischer allows that both liberty and freedom have played constructive roles in the maturation of American culture, and sometimes he seems to forget himself and uses the terms synonymously. I could resort to other nouns, such as "communalism" versus "individualism" to distinguish them, but those terms fail to note the similarities along with the differences between liberty and freedom.

Freedom: Hitting the Virtuous Mark

"Freedom" also has deep roots in Western history and culture, even deeper than "liberty." For the ancient Greeks and Romans, "liberal education" meant "education appropriate for free men." Aristotle defined man as a *zoon politikon* ("an animal who lives in a *polis*," a city-state) and as a *zoon logon ekhon*, "a living being capable of speech." Aristotle was formulating a view common among the ancient Greeks and Romans, that the central concern of free people was to live together in a community and talk with each other—share ideas, agree and disagree on projected courses of action.³ Unavoidably, their conversations touched on moral issues. Aristotle's ethical and political writings never shrank

from offering what we call value-judgments: judgments about good and bad city-states, good and bad people, virtue and vice. His ethics were grounded in *teleology*, a term we must understand if we are to see what lies at the root of his argument. From the Greek *telos*, meaning “end” or “function,” teleology is the study of things, animals, or persons from the standpoint of their *purpose*. The purpose of a ship is to carry goods and people through water. If it fails at this it can’t really be called a ship. The function of a horse is to do the same on land. Failing that, it doesn’t qualify as a horse.

What of human animals? What is *their* function? Aristotle prefaces his answer with these rhetorical questions: “Have the carpenter, then, and the tanner certain functions or activities, and has man none? Is he born without a function?”⁴ For Aristotle the function of man is *to live happily with other human beings in a community*. This needs to be unpacked, and Aristotle devotes himself to the task mainly in two books: his *Nicomachean Ethics* and his *Politics*. In the latter he says that anyone who can’t live communally with other humans, or doesn’t need to, is not a man but “either a beast or a god.”⁵ As for “living happily,” which comes from the Greek *eudaimonia*, it can also be rendered “well-being” or “flourishing.” It is not a momentary high but a settled state of fulfillment proper alone to humans. Aristotle waxes lyrical in describing the life of virtuous people:

Their life is also in itself pleasant. . . . Now for most men their pleasures are in conflict with one another . . . but the lovers of what is noble find pleasant the things that are by nature pleasant; and virtuous actions are such, so that these are pleasant for such men as well as in their own nature. Their life, therefore, has no further need of pleasure as a sort of adventitious charm, but has its pleasure in itself. . . . Happiness then is the best, noblest, and most pleasant thing in the world.⁶

Integrally linked to “virtue” is “practical wisdom,” meaning “the quality of mind concerned with things just and noble for man . . . the things which it is the mark of a *good* man to do.”⁷ In an obvious allusion to archery, Aristotle writes, “Virtue makes us aim at the right mark, and practical wisdom makes us take the right means.”⁸ Practical wisdom thus enables us “to do the things that tend towards the mark, and to hit it.” But without virtue, practical wisdom is useless, or worse than useless. Intelligence gets corrupted into knavery or cunning. “Wickedness perverts us and causes us to be deceived about the starting-points of action.”⁹

In sum, this is what Aristotle means by freedom: *a state of being in which a man or woman is able to make a correct judgment of what constitutes a virtuous act and knows what needs to be done to hit that mark*. A good community is one that enables and encourages people to act in such a manner. As David Bentley Hart puts it: “We are free when we achieve that end toward which our inmost nature is oriented from the first moment of existence, and whatever separates us from that end—even if it comes from our own will—is a form of bondage.”¹⁰

In the Middle Ages a number of Aristotle's works, thought to have been lost forever with the collapse of the Roman Empire, turned up in Spain, North Africa, and the Middle East. Translated from Greek into Arabic, largely by Muslims, then into Latin by Christians, they soon found their way into the new universities in France, England, and Italy where they were seized eagerly by scholars hoping to gain new insights from the old texts. The best-remembered of these "scholastic" thinkers is St. Thomas Aquinas, whose *Summa Theologiae* and other works attempted to synthesize Aristotle and other pre-Christian writers with Christian doctrine. To Aristotle's four basic virtues of prudence, justice, temperance, and courage, Aquinas added three "supernatural virtues": faith, hope, and charity. Moreover, even in the secular realm, Aquinas emphasized the *internal* good of the virtues: Justice is not only a political virtue, it also enriches the human soul.¹¹ Thus Aquinas, and the other "schoolmen," as they were called, set out to find an acceptable link between pre-Christian moral philosophy and the teachings of the Church.

They found a link, or at least Aquinas did, in their concept of human freedom. True freedom is not doing what you please. It is emancipation from behavior counter to the life of rational virtue. In this view of things, we are free when we achieve the end toward which our nature is oriented. Here again was Aristotle's teleology: the "end" or purpose of a human being, which is happiness, fulfillment, human flourishing. Whatever separates us from that, even if it comes from our own wills, is not freedom but slavery. We are free not merely because we can choose, but only when we are fitted to make well-considered choices. To be free was thus, as historian Patrick Deneen puts it, "to be free from enslavement to one's basest desires, which could never be fulfilled, and the pursuit of which could only foster ceaseless craving and discontent."¹² In Christian anthropology, then and now, "being human is the only criterion for membership in the community of persons."¹³ There was no place in classical Greek or Roman culture for that kind of thinking.

Yet even as Christian moral ideals spread among the European population and eventually to the farthest reaches of the world, their metaphysical underpinnings began to be challenged, first in the university community and then within the larger society of readers and thinkers. Within a few centuries after Aquinas's death the word "scholastic" had become synonymous with hair-splitting, obscurantism, and irrelevance. New thinkers emerged with more arresting, daring things to say. In 1532 in *The Prince*, Niccolò Machiavelli asserted that people seeking power should "learn how *not* to be virtuous, and to make use of this or not according to need."¹⁴ As philosopher Pierre Manent observes, "what is so significant in Machiavelli's repeated advice is not the fact that he invites the prince to do evil when circumstances require it, but that he asks him for this reason to renounce his conscience *in advance*, to dismiss in advance the natural

guide and judge of human actions.”¹⁵

Machiavelli may have been the first to openly challenge the core premises of classical and medieval thought, especially its views of the nature and purpose (“end”) of human beings. But he was hardly the last. Over the next three centuries a time-traveler would be staggered by their diversity. All kinds of imaginary “states of nature” were drawn up as starting-points or cautionary tales, “utopias” were proposed for imitation, and of course there were the new religions (or variations of the old) that generated new conflicts. After three centuries of off-again-on-again wars, some philosophers were ready to throw in the towel. Abandoning the quest for a virtuous polity, their watchword was no longer Freedom but the morally neutral Liberty, which General Eisenhower defined as “the right to live as you please, provided you don’t get in someone’s hair.”

Liberty: The Sovereign Self

I am not going to scorn liberty for its moral neutrality. Right now, I am drinking a cup of tea—simply because I like to. I don’t need to demonstrate tea’s health properties or even care if it has any. I just like drinking it. And the same would apply if it were wine. One reason the Eighteenth Amendment to the Constitution was such a monumental flop was that millions of normal, law-abiding Americans could not understand why they should stop drinking something provided and even sanctified by Jesus Christ. The worst result of Prohibition is that it taught even middle-class people contempt for law. In Chicago, that gave us Al Capone and his gang (although the members of Capone’s Chicago gang could at least shoot straight; no toddlers died at their hands). Prohibition was an attempt to control alcohol abuse, which had risen to unprecedented levels in nineteenth-century America. But use is not abuse, and no proof has ever been shown that the *moderate* use of wine, whiskey, or beer gets into anyone’s hair, even the drinker’s.

The best case for Liberty as defined here was written by English philosopher John Stuart Mill in 1859. In *On Liberty* Mill wrote: “The object of this Essay is to assert one very simple principle,” which is that “the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.” Seen in isolation, I find it impossible to quarrel with this assertion. During the Covid years American politicians interfered in major ways with our individual liberties, sometimes without any solid proof that such measures were necessary. A cold shower of Millian individualism might wake us up to the dangerous pretensions of the administrative state. During the 2021 Democratic mayoral debates in New York City, a questioner from the audience asked all the contenders, “Which foods would you ban?,” and each struggled to come

up with the right answer. None saw fit to react as Mill would have, by asking, “What gives government the right to ban food?” A New Yorker from an earlier generation, say the 1950s, probably would have shouted, “What the hell are you talking about?”

Even so, Mill’s contention that the only time speech and actions can legitimately be banned is when they cause “harm to others” has a serious flaw. It turns on the meaning of the word “harm.” Mill would readily agree that any words or acts that cause physical or financial harm to others are justly punishable by law. But what about *moral* harm? Here we enter waters treacherous for anyone navigating solely by libertarianism. Since the word “liberty” is empty of moral content, Mill can’t even enter a discussion of that question—so he brushes it away. He regards such thinking as, well, parochial. Speaking of the average English Christian, he says that “it never troubles him . . . that the same causes that made him a churchman in London, would have made him a Buddhist or a Confucian in Peking.” In Mill’s view, the Christian religion falls “far below the best of the ancients.”¹⁶ Yet the ancient pagan Aristotle asked the same question that the medieval Catholic Aquinas later asked: the teleological question, what is liberty *for*? Putting it another way: Liberty to do *what*? Think of someone who drinks excessively (a self-regarding act), then comes home and causes havoc within his family (an other-regarding act). If our focus is entirely on liberty, there is really no hope of preventing this sad outcome. But if our focus is on *freedom*, we would reach out to such a person, urging him—and providing him the means—to free himself and his family from a destructive vice. It might not work, but sometimes it does, and that is better than doing nothing, which is all that liberty *per se* has to offer.

American politics and law have been heavily weighted in favor of liberty. According to the Declaration of Independence, it is “self-evident” that all people possess “unalienable rights,” including “life, liberty, and the pursuit of happiness,” and the Constitution’s Bill of Rights lists ten basic liberties, the ninth of which closes off any possible loophole by holding that its listing of rights “shall not be construed to deny or disparage others retained by the people.” Thomas Jefferson was all in for this—he wrote almost all of the Declaration and was a big fan of the libertarian French Revolution (“Liberty, Equality, and Fraternity”). Jefferson’s frenemy, John Adams, spoke much more cautiously about America’s constitutional liberties: “Our Constitution was made only for a moral and religious people. It is wholly inadequate for any other.”¹⁷ What Adams meant was that *our Constitution needs the moral boundaries supplied by Judeo-Christian religion; without that bracing it won’t work*. Which raises the inevitable question: How has Christianity been holding up in the West over the last three centuries?

In Europe at least, not very well. Leaving aside the horrific massacres of the

clergy and faithful during the French Revolution, it was in the intellectual realm in Europe that the more lasting damage was done. By the end of the nineteenth century, the theology that had once supported Christianity was being picked to pieces, particularly in German universities where historical-critical studies “explained” Christianity by explaining it away. New philosophies denied that humans had any purpose—we are thrown into a world without meaning or destiny. In social theory, new voices began asking whether the Christian hope of conversion really works for certain classes or races of people. Others in the academy began asking why Christians had to keep talking about helping the helpless, especially when that meant keeping “mental defectives” alive to pass their genes down to subsequent generations. As for the Christian virtue of humility, some prominent European thinkers called it a “slave mentality.” Vulgarized fragments of these philosophies found their way into the totalitarian movements that devastated Europe in the twentieth century. Despite the defeat of Nazism and Soviet Communism, the damage inflicted on Christianity during the last century is palpable in Western Europe—its grand cathedrals have become museums for tourists. Most Europeans now reserve church attendance for special occasions; it is mosque attendance that is growing in Europe.

Christianity’s vitality has continued much longer in America, first because of the solid foundation built for it by the New England Puritans and the later Puritan diaspora in the Upper Midwest and the Northwest Coast. Along the way it was given fresh jolts of energy by two “Great Awakening” movements of evangelical Protestantism, one between 1730 and 1750, the other from the 1850s to the early 20th century. Meantime, the arrival of nearly a million Irish, driven by the potato famine in Ireland (1845-52), brought worshipers, clergy, and eventually Catholic schools and colleges to America. Later in the century a new wave of Catholic immigrants, this time from Italy, came to America to escape poverty and oppression. Despite fierce resistance in Protestant quarters, Catholic doctrines, holidays, and patron saints made their way into the mainstream of American culture. By the twentieth century, particularly by 1945, the ill-feelings between the two branches of Christianity in America had been mended in the trenches and on the home fronts of two world wars.

Then, at some point in the 1960s, before it was really much noticed, an erosion began. Over the next forty years the erosion steadily increased, and today it has become a landslide. Any Catholic of a certain age can remember when churches were packed on Sunday with young parents in the pews trying to shush their crying infants. Today such noises are seldom heard in churches, at least in the North,¹⁸ because those young parents have become gray-haired grandparents without many potential replacements to follow on. “In the early 2000s,” writes Ross Douthat of the *New York Times*, “there were almost a million Catholic baptisms in the United States every year. By 2015, that number

was down to around 700,000. If that trend continued, there could be as few as 350,000 by the 2030s.”¹⁹

At least as important as these demographic changes is the way many Americans now profess their Christian beliefs. In *Habits of the Heart*, published in 1985, a team of sociologists headed by Robert N. Bellah showed how religion in America had moved from being highly public, as it once was, to becoming private and subjective. To demonstrate that shift, they quoted a young nurse named Sheila Larson:

I believe in God. I'm not a religious fanatic. I can't remember the last time I went to church. My faith has carried me a long way. It's Sheilaism. Just my own little voice. . . . It's just try to love yourself and be gentle with yourself. You know, I guess, take care of each other. I think He would want us to take care of each other.²⁰

Currents of Sheilaism run through the responses of young people today when questioned about religion. A study by the Pew Research Center revealed that one in three 18- to 29-year-olds profess no religion.²¹ Even among those who do, their attachment is tentative at best. In his 2018 book *The Benedict Option*, Rod Dreher cites a 2005 study that examined the spiritual lives of American teenagers. “What they found,” Dreher writes, “was that in most cases, teenagers adhered to a mushy pseudo religion the researchers deemed Moralistic Therapeutic Deism (MTD).” Here is Dreher’s summary of MTD’s apparent credo:

- A God exists who created and orders the world and watches over human life on earth.
- God wants people to be good, nice, and fair to each other, as taught in the Bible and by most world religions.
- The central goal of life is to be happy and feel good about oneself.
- God does not need to be particularly involved in one’s life except when he is needed to solve a problem.
- Good people go to heaven when they die.²²

What to make of all this warm fuzziness? It could mean anything. We can call on God when we need Him and forget about Him when we don’t. We can do whatever makes us feel good about ourselves. And if we’re nice we go to Heaven. Amen. This is not Christianity, it is Sheilaism, and it is compatible with nearly any moral code. In a follow-up study of young adults published in 2011, 61 percent said that they had no moral problem with materialism and consumerism.²³ It appears, then, that religious sloppiness has downstream moral effects. It eases the way to moral relativism. “Some people think this is wrong, others think it’s right, so who can say?” As I noted earlier, the question that must always be asked of those who celebrate “liberty” is: Liberty to do *what*?

The Rosetta Stone for understanding our present moral situation is the concurring opinion of Supreme Court Justices Anthony Kennedy, Sandra Day

O'Connor, and David Souter in *Planned Parenthood v. Casey* (1992). In that case the Court upheld most of Pennsylvania's abortion regulations (such as spousal notification and a 24-hour waiting period) but also reaffirmed its own 1973 ruling in *Roe v. Wade* that a woman has a constitutional right to abort her child, at least prior to viability and in certain cases beyond it. Like the decision in *Roe*, the *Casey* decision was grounded on the "liberty" clause of the Fourteenth Amendment.

Justice Kennedy, who wrote the opinion, explained what he meant by the term: "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." What does that have to do with abortion? Well, Kennedy states, some people think that abortion is "an act of violence against innocent human life"—but others don't! They don't think a fetus has a human life to be violated. So it's all a matter of how you define things, and everyone has the right to define terms like "existence" (which itself covers a lot of ground) and "the mystery of human life" any way they like. You can apply the Mystery Principle to other topics besides abortion: gender, for example (you're female if you say you are), marriage (for the first time in the known history of the world, people of the same sex can be married), and race (you look at that photo of your great-aunt and declare yourself part Cherokee). Everything's fluid.

Justice Kennedy did try to lay down some "guiding principles" for courts to consider in deciding on the constitutionality of state abortion regulations. "Regulations which do no more than create a structural mechanism by which the State, or the parent or guardian of a minor, *may express profound respect for the life of the unborn are permitted. . . .*" (My italics.) Kennedy was thus acknowledging that there is a living being—for whose life it is not inappropriate to show "profound respect"—inside the mother or gasping for breath on a warm towel. Yet he also reminds us that some people do not share that perspective. In their view, that being does not deserve respect. That is why they get to end its life.

Is there anything we can do to save this country from its dive into nihilism?

What Is to Be Done?

In *The Benedict Option*, Rod Dreher, whom I quoted earlier on the mushiness of popular American religion, contends that the only real alternative for serious Christians today is "internal exile." He agrees with Pope Benedict XVI that "The Western world today lives as though God does not exist," and he draws inspiration from the other Benedict, St. Benedict of Nursia (480-547 A.D.), who lived at the time when Rome—once the center of the Western civilization—was literally falling apart. In 410, Rome was sacked, burned, and all but emptied by fierce Gothic tribes. Growing up in the ruins of a once-proud empire, Benedict took to the hills, living alone there for three years before joining a monastery

and eventually founding twelve more, all based on his austere Benedictine Rule of disciplined spirituality. In *The Benedict Option*, Dreher contends that serious Christians in America find themselves in the same situation today.

Dreher believes we must accept the fact that in the years to come, “faithful Christians may have to choose between being a good American and being a good Christian.” To attempt to “reclaim our lost influence will be a waste of energy or worse, if the financial or other resources that could have been dedicated to building alternative institutions for the long resistance went instead to making a doomed attempt to hold on to power.” Instead, quoting the Czech playwright and political prisoner Vaclav Havel, Dreher suggests that the real solution is to set up “parallel structures” of community life. Christians need to make the best of the grim times ahead for the West. “We are a minority now, so let’s be a creative one, offering warm, living, light-filled alternatives to a world growing cold, dead, and dark.”²⁴ There is something bracing, something almost romantic, about the idea of serious Christians banding together to form their own *polis*, based not on mindless, empty Liberty but moral Freedom in a virtuous community. But how do you go about doing this?

Actually, there have been several attempts to do this on American soil through “utopian” societies. America itself, or at least a chunk of it, began as a utopia in New England when the Puritans landed there in 1620 and sought to implement their governor’s dream of a “City upon a Hill.” In the nineteenth century, a number of communal experiments cropped up in various places. In 1825 a Welsh industrialist and social reformer named Robert Owen purchased a town in Indiana named Harmony and, renaming it New Harmony, started a socialist colony. It lasted only two years but inspired a number of more modest civic projects. Another such community, Brook Farm, founded near Boston in the 1840s by a former Unitarian minister, was based in part on the ideals of transcendentalism. It also had a short life but inspired novelist Nathaniel Hawthorne, who lived there for a time, to write *The Blithedale Romance* (1852). Then, of course, there were—and are—the Mormons. After a mob in Illinois murdered their founder Joseph Smith in 1844, they started their trek to the wilds of Utah. Led by Brigham Young, they entered the state on July 24, 1847, and set up their own *polis*, Salt Lake City, based on the tenets of the Mormon religion.

Some today have sought to do what the idealists of the nineteenth century did: form new communities. The best-known of these was founded in 2003 by Tom Monaghan, a multimillionaire who made his fortune as the founder of Domino’s Pizza in 1960. In 2003 he invested \$250 million to create the town and university of Ave Maria in Florida, 30 miles east of Naples. The town is built around a gigantic oratory, serving both as church and university chapel. As of 2015 there were 720 homes in the town, though the plan is eventually to build 11,000. Ave Maria University is a Catholic liberal arts institution of

higher learning “dedicated to the formation of joyful, intentional followers of Jesus Christ through Word and Sacrament, scholarship and service.”²⁵

The most recent venture along the lines of Ave Maria was still in the planning stage in 2021, but its creators said it would soon be underway in the countryside of Winona, Texas. Called *Veritatis Splendor* (“The Splendor of Truth”), named after an encyclical by Pope St. John Paul II on the Catholic Church’s moral teaching, its stated purpose is to “protect, preserve and proclaim the truth of the faith given to us by Jesus.” The founders have already purchased 600 acres of land and begun a \$22-million capital campaign. Veritatis Splendor has the support of the local bishop, Joseph Strickland. “I see it not as a ‘circling the wagons,’” Bishop Strickland said, “but as a community of support—almost the opposite of the ‘Benedict Option.’”²⁶

In the same year a more modest experiment in communitarianism was underway in Greenville, South Carolina. As of April 2021, 14 new families from 11 different states had moved to Greenville to become parishioners in an already-established parish, Our Lady of the Rosary (OLR). A couple who moved from Minnesota spoke for many: “We made the decision to move our family (grandparents too) across the country where people didn’t apologize for being Catholic.”²⁷

In all these social experiments we see families who have packed up their belongings and travelled many hundreds of miles to relocate to a new community of shared moral/religious beliefs. A bold and commendable move. But whether it is “almost the opposite of the ‘Benedict Option,’” as Bishop Strickland claims, is open to question. He categorized Dreher’s approach as “circling the wagons”—but these faith communities seem to be doing the same. They consist of people of like mind and heart hanging out together. Which is fine, but is it enough? The early Christians did not content themselves simply with gathering together in prayerful union. They carried the good news to others, even to those who didn’t particularly care to hear it. “Woe to me if I preach not the Gospel,” said St. Paul.²⁸ It is this challenge that seems to have been left on the table by those who have chosen “the Benedict Option” or relocated to new faith communities.

Others, therefore, have chosen not to flee but to stay here and fight. Much as Dorothy Day and Martin Luther King did in the 1940s and ’50s, they seek to bring Gospel wisdom to the cause of social reform. Some are taking to the streets, praying in front of abortion clinics or marching on Washington. Others are trying a different but complementary route: In books, essays, and media appearances they have declared war on “establishments,” even conservative ones, that fail to challenge the moral decadence of the West.

To view the field of battle we must understand how Left and Right have criss-crossed each other in recent years. Leftists, who once championed civil liberties,

are now given to cancel-culturing opinions they don't like, while many on the Right, in defending those opinions, are starting to sound like Clarence Darrow in 1925 defending the right to teach evolution. Defending liberty can be a noble profession, but those who practice it should always be prepared to answer the question we have posed more than once in this essay: Liberty to do *what*? Liberty to bring all souls to Heaven? Liberty to smoke marijuana? Liberty to refuse a vaccination?

At some point we must start looking at liberty's *object*: What *is* it that needs to be protected, and *why* does it deserve protection? When we accept that burden, we start crossing the line from *liberty*—the right to say or do something—to *freedom*, the right to live in a decent, virtuous society. We have moved from process to substance, and when we make that step, we can't turn back. We have to be prepared to say that certain things (practices, performances, lifestyles) are good, and should be promoted, while others are bad, and should be discouraged or banned.

In the past, social liberals used to be chary about entering that field of controversy because America's Judeo-Christian values did not jibe very well with some of theirs, so they would lose the fight for legitimacy. But today, as one keen observer has noted, "The left's values prevail in universities, public schools, newsrooms, corporate boardrooms, cultural institutions, government agencies, and lately the U.S. military."²⁹ The Left is no longer hesitant to shout its support for abortion, gay marriage, pornographic entertainment, marijuana, and transgenderism. And contrary views are not welcomed.

How should conservatives resist these tidal forces? It depends on whom you ask. For many conservatives the answer would be to step up to the liberals and say: "We demand the right to reply, and we'll take you to court if you don't allow it." Those who focus on that strategy are sometimes called "procedural" conservatives because of their emphasis on individual autonomy and unrestricted debate as the best means of beating the opposition. In line with the dual categories in this essay, let us call them *liberty conservatives*. On the other side are *freedom conservatives*, not content with opening avenues of debate but who also take sides in the debates, particularly the debate over how we ought to live together as a free people.

A running debate between the two brands of conservatism broke out in the March 2019 edition of *First Things*, a culturally conservative journal. Entitled "Against the Dead Consensus" and signed by fifteen writers, it laid down its case against liberty conservatism. While conceding that it had "played a heroic role in defeating Communism in the last century," it "too often tracked the same lodestar liberalism did—namely individual autonomy." It paid "lip service" to moral values.

But it failed to retard, much less reverse, the eclipse of permanent truths, family

stability, communal solidarity, and much else. It surrendered to the pornification of daily life, to the culture of death, to the cult of competitiveness. It too often bowed to a poisonous and censorious multiculturalism.³⁰

Much of the rancor in the piece was directed at what its authors saw as the elite style of liberals, their scorn for middle class values, and their attraction to countercultural fashions. In contrast, the authors sought to create a policy to meet “the messy demands of authentic human attachments: faith, family, and the political community.”³¹ Outside its immediate core of supporters, the piece did not cause much of a stir, so one of its signers, Sohrab Ahmari, turned up the volume two months later in his own *First Things* article. This one got personal: “Against David French-ism.”

Ahmari, 34 years old, was until recently the op-ed editor of the *New York Post*. He was born in Iran to nominal Muslim parents and came to the U.S. as a teenager. Starting out as an agnostic before trying out a variety of faiths and ideologies, he converted to Catholicism at 31 and is married with two children. The fact that he has two small children ties into his criticism of liberty conservatism, personified by David French.

French is the senior editor of *The Dispatch* and a former writer for the *National Review*. A graduate of Harvard Law School, he has spent much of his career in courts defending religious rights. He is a former major in the U.S. Army Reserve and was deployed in Iraq in 2007 as a squadron Judge Advocate, for which he was awarded the Bronze Star.

What prompted Ahmari’s attack on David French had nothing directly to do with French. It was a Facebook ad for a “Drag Queen Story Hour” at the Sacramento Public Library. Aimed at children starting at the age of three, it features men who dress up as women to promote “gender diversity” and “self-love” by providing, it says in its brochure, “glamorous, positive and unabashedly queer role models.” The performance started in San Francisco in 2005 and, endorsed by the American Library Association, it now has 35 chapters in the U.S. and at least one in the U.K. (where the show includes a lesson in twerking). Ahmari could not imagine what right anyone had to perform like this in front of small children, children like his own. “This is demonic,” he tweeted. “To hell with liberal order. Sometimes reactionary politics are the only salutary path.”

David French, who is also a father, is a keeper of the liberal order. He calls himself a “classical liberal.” A deeply religious Protestant, he nevertheless insists on “viewpoint neutrality” when it comes to speech activity, meaning that government can’t ban a speech activity simply because somebody doesn’t like its viewpoint. This is straight out of the John Stuart Mill playbook, putting French in the crosshairs of anyone who rejects Millian libertarianism. That would be Sohrab Ahmari.

Ahmari’s major premise, guiding everything in politics he writes about, is that

America is in the midst of a “cultural civil war.” For him, there is no “polite, David French-ian way around it.” Freedom conservatives, Ahmari believes, need “to fight the culture war with the aim of defeating the enemy and enjoying the spoils in the form of a public square re-ordered to the common good and ultimately the Highest Good.” In Ahmari’s view, this aggressiveness is “thoroughly alien to French” because he believes in “neutral zones that should, in theory, accommodate both traditional Christianity and the libertine ways and paganized ideology of the other side.” His conclusion: All French is left with is his plea that traditional Christians should be allowed to rent spaces “in which to practice and preach what they sincerely believe,” a weak response at a time when “the overall balance of forces has tilted inexorably away from us.”

The very next day French replied in a *National Review* article, charging that “Ahmari flat-out misrepresents my approach to politics and my role in key public controversies.” French spent much of his article describing his long service in defending conservative institutions while promoting “fundamentally Christian and Burkean conservative principles.” He was thus claiming to be a champion of both the *substance* of Aristotelian-Christian thought and the libertarian *process* à la Mill. “It’s not one or the other. It’s both.”³²

The Ahmari-French debate was not confined to the printed page; it migrated to the public stage in two in-person debates, one at Catholic University of America on September 9, 2019, the second eight days later at Notre Dame University. Both were lively, but it was the first one, reviewed here, that probed their deepest differences. The moderator, *New York Times* columnist Ross Douthat, started off by asking Ahmari an obvious question: What is David French-ism? To which Ahmari answered, “It is a program for Christian retreat from the public square.” Douthat then asked French, “Do you recognize that pithy description?” French did not. In fact, he said, his approach was not just to maintain but to extend Christian presence in the public square. “I’ve been absolutely on the ground . . . been aggressively and offensively—but not offensively [*sic*—extending the Christian witness in many of the most hostile areas of the United States.”

Invited by Douthat to reply, Ahmari prefaced his remarks by saying that he didn’t want to overdo the noun “French-ism” (French shouted, “Too late! Too late!”—the first of his many interruptions), yet he felt the need to contrast his reaction with French’s to the Drag Queen Story Hour. “If I’m not mistaken, David, I think you kind of pooh-poohed the dangers of a performance that has thirty-five chapters in this country.” For Ahmari, a performance like this “in a space interacting with children”—he would have no objection to it in the gay bar down the street from his apartment—amounted to cultural aggression. French had a very different take: “It’s a product of a free nation . . . Drag Queen Story Hour is one of the least significant problems in our nation.”

Anyway, he added, even if it were, what are you going to do about it? This is

the toughest challenge Ahmari faces. How can you shut down a performance protected by the First Amendment of the Constitution and bolstered by at least fifty years of Supreme Court precedents? Ahmari knows that an outright ban would not survive judicial scrutiny, but measures short of it could be used, such as holding congressional hearings “on what’s happening in our libraries,” where conservative senators like Josh Hawley and Tom Cotton could “make the head of the Modern Library Association or whatever sweat.” Ahmari’s point is that on some issues government can—and should—play an activist role in promoting virtue and fighting immorality. A conservative on moral issues, Ahmari is a populist on the reach of government. Affluent, well-educated people have their lawyers and their friends in high places to protect themselves against threats to their way of life. Lacking these weapons, Ahmari says, the common people need government to stick up for them.

French then asked Ahmari what he thought of “viewpoint neutrality,” which, as noted earlier, means that government can’t ban or limit a speech activity just because some people don’t like its viewpoint. This, “one of the bedrocks of our system” as French called it, was the bait for his trap. “So,” French inquired, “would you undermine viewpoint neutrality in First Amendment jurisprudence?” Without hesitating, Ahmari replied: “Yeah—I would.” French then erupted: “That’s a disaster, y’all. . . That’s not offensive, that’s stupid!”

And on that cordial note the debate effectively ended.

Conclusion: Why Not Both?

Two words, “freedom” and “liberty,” are often used interchangeably. In this essay I have given them very different meanings. “Liberty” is the easy one to define because we all associate it with “rights,” notably “the right to do what you please.” We may soften the formulation by adding, “as long as you don’t harm others in the doing of it,” but the core of it is self-oriented. It is the language of individualism.

“Freedom” is harder to define. It has moral connotations that place limits on what we are allowed to do. Why, then, call it “freedom”? Aristotle’s teleology helps us understand. A human being is a very special animal, one who speaks (not just grunts, barks, or whinnies) and lives in a community (not a herd). What is the end, the *telos*, of a human being? It is *to live happily with other human beings in a speaking community*. It is not a momentary high but a settled state of fulfillment proper alone to humans. We are most free, then, when we are able to hit that virtuous bull’s-eye toward which our very nature is oriented. We are least free when we give ourselves over to drugs, drunkenness, pornography, and the other social vices that drag us down from our humanity. We pity people in these situations because we know that they are not free; they are slaves.

America was “conceived in liberty,” Abraham Lincoln reminded us in his

Gettysburg Address. As I noted earlier, government has had a comparatively light touch in America. Socialism is so unpopular here that even *de facto* socialists run away from the term, preferring to be called “progressives.” A motto of uncertain origin, “That government is best which governs least,” has a distinctly American ring. One famous American, Henry David Thoreau, went it one better by saying, “That government is best which governs not at all.”

All of which (except for Thoreau’s exaggeration) is fine. In this essay I have gone to some length to identify liberty as the perennial—and irreplaceable—American ideal, the right, as General Eisenhower said, “to live as you please, provided you don’t get in someone’s hair.” But here again comes that question: Liberty to do *what*? The “what” used to be negotiated largely at the level of “civil society,” the non-governmental community of interests and morals. Government did not need to play much of a role because the mores of society did most of the work. Those moral lessons were taught in church, of course, but also in the home and school. Even children’s literature and entertainment reflected those mores. Historically, in the West at least, they were deeply informed by Judeo-Christianity. Even the non-religious were influenced by its moral codes.

Today, when those social mores are coming under increasing challenge, some who embrace them are trying out different ways of spreading the word that we can only be *truly* free by striving toward the *telos*, the end to which our human nature is oriented: a life of speaking and acting together in a vital community. This is a Freedom agenda because it tells us what a life of freedom should be like. It conforms with what Eisenhower called “the dignity of the human soul.”

But how to spread that news? For Rod Dreher, as we have seen, direct involvement in the current political system is a “waste of energy.” His “Benedict Option” is to build “alternative institutions” or “parallel structures,” much as St. Benedict did in the sixth century amid the ruins of the Roman Empire. Dreher does not clearly spell out how these “institutions” could be set up and whether their members could—or should—avoid the current political battles. Much is at stake in these battles; they and their families could be adversely affected by the outcome. Don’t cultural conservatives need to stay where they are and fight? The same question could be put to those who relocate to locations congenial to their faith and morality, such as Ave Maria in Florida or Veritatis Splendor in Texas. Even as they relocate, the conflicts will continue, and being AWOL for the luxury of not having “to apologize for being Catholic” doesn’t help the cause of Freedom. So, we come to the third way of dealing with moral decadence: stay here and fight it.

This is a real fight, with real enemies. Abortion has killed more than sixty million children since *Roe v. Wade* in 1973. Hard-core pornography is a few clicks away from any child with a cell phone. Recreational marijuana is already legal in seventeen states and the number is expected to grow as sales provide much-

needed state revenues. Gender is now considered to be “assigned” at birth, so it can be “reassigned” later by request. Physician-assisted suicide is available in nine states and the District of Columbia, and court cases are pending on whether druggists can be forced to fill death prescriptions. And then there are the “Drag Queen Story Hours” in 35 American libraries. All of this is protected by powerful, well-financed lobbies and their supporters in government and the press.

These, then, are the enemies of Freedom. They must be fought. But here is the question: *While fighting them do we also need to fight some of our friends?*

David French is our friend. He loves America and has spent time in its military service. He is also a devout Christian, has brought lawsuits to defend the civil liberties of Christians, and he hates pornography. But French is a libertarian; he fights the enemy with a weapon perfected by John Stuart Mill: If x and y are opposed on an issue, they must have approximately equal time to present their arguments. The state’s main role is to enforce that rule. But it must not enquire into the substance of either argument. This, called “viewpoint neutrality,” is the hill on which David French is willing to die. Sohrab Ahmari, on the other hand, wants us to inquire into the substance, the “whatness” of each side, decide which one is the good one, and support it. The public is not just a referee; it is the chief player in a great moral drama.

The two conservative arguments thus seem to be irresolvable. But are they? At one point in the debate both seemed to like the moderator’s suggestion that the two positions didn’t have to be “either/or,” but could be “both/and.” Neither followed up on that suggestion, but perhaps there is something to it. Ahmari, at least, would not rule out the tactical use of French’s weaponry, such as demanding equal time in a debate or objecting to some ruling by the chair. Why not? In warfare you use any weapon that comes to hand. But presumably he would make sure that the thrust of his case didn’t depart too far from the underlying moral binary: This is good and that is evil.

NOTES

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8. *Ibid.*, pp. 155, 156.
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16. John Stuart Mill, *On Liberty* (Arlington Heights, Ill.: Arlington Publishing Co., 1947), pp. 18, 40, 49, 50.
17. John Adams, “To the Officers of the First Brigade of the Third Division of the Militia of Massachusetts, 11 October, 1799.” /George Washington voiced a similar view in his Farewell Address: “Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.” *George Washington: A Collection* (Liberty Classics, 1988), p. 521.
18. As I will note shortly, there are some hopeful signs of religious revival in Southern states such as Florida, South Carolina, and Texas.
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22. Quoted in Dreher, pp. 10-11.
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“Sanctuary Cities” Provide Abortion-free Zones

Julia Duin

When it comes to creative ways to oppose abortion, Texans seem to lead the pack.

Earlier this fall, America’s second-largest state captured the attention of the nation when the U.S. Supreme Court allowed the state’s SB 8 abortion statute—banning the procedure as early as six weeks into pregnancy—to stand. Its most controversial provision gave private citizens the right to enforce the law by suing abortion clinics and reporting anyone who helps women obtain abortions. The Biden administration immediately appealed the law, and on Oct. 6, a federal judge in Austin granted its request, temporarily blocking its enforcement. Two days later, the Fifth Circuit Court of Appeals reinstated the law, which at this writing is now in force. While most abortion centers remained closed, a few individuals have openly broken the law, characterizing it as “extreme.”¹

The handwringing and outraged editorials on TV shows and news sites nationwide have presented Texas as a living replica of Gilead, the dystopian society featured in the Hulu series “The Handmaid’s Tale.” Meanwhile, while everyone remains fixated on SB 8, another anti-abortion initiative is slowly spreading across Texas; a movement that has gone largely unnoticed but is slowly nibbling away at abortion access by decrees. It is known as the “sanctuary cities” movement, where a town simply votes in an ordinance to outlaw any abortions within city limits. As of mid-October, the total number of cities signing on as sanctuary cities numbered 38, with 35 in Texas, two in Nebraska, and one in Ohio. (More on this in a moment.)

First, some background on how many Texans have applied themselves to ending abortion in any way possible. Unlike most states, Texas never repealed its laws outlawing and criminalizing abortion (except to save the mother’s life) that were in place when *Roe v. Wade* was decided in 1973. Neither did four other states: Mississippi, Alabama, Arkansas, and Oklahoma. It is in these states where the resentment about federal overreach on abortion is strongest.

It’s also worth mentioning that Texas birthed *Roe v. Wade*, thanks to the efforts of Linda Coffee and Sarah Weddington, two lawyers out of Austin and Dallas who began planning in 1970 how to overturn Texas’s abortion statutes.

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(The “Wade” in the case was Henry Wade, the Dallas district attorney, and the “Roe” was plaintiff Norma McCorvey.) To the public eye, pro-choice women like Gov. Ann Richards, newspaper columnist Molly Ivins, and U.S. Rep. Barbara Jordan seemed most representative of the general sentiment among Texans toward abortion.

And yet, as a recent *Texas Monthly* article² points out, the blowback against abortion began soon after *Roe v. Wade*, starting with a religious refusal law passed by the state legislature in 1977 that backed doctors not wanting to perform the procedure.

“It took fifty years, but they were successful,” the article mourned (“they” being proliferers).

More state restrictions got tacked on, and the winds began to seriously shift in 2003 with the “Woman’s Right to Know Act,” a law requiring a doctor to show the woman pictures of the unborn child and resources for post-natal care. In 2011, requirements were added to the act mandating that women have a sonogram of their fetus 24 hours before undergoing an abortion, and that they be given the chance to listen to the child’s heartbeat.

In 2013, the Texas Omnibus Abortion Bill, also known as House Bill 2, required abortion clinics to have the same sort of medical equipment, standards, and staffing as surgical centers—and also required the doctors performing abortions to obtain admitting privileges at a nearby hospital. This ruling, which would have closed 75 percent of the state’s abortion clinics, was challenged in a court case known as *Whole Woman’s Health v. Hellerstedt*, and was struck down by the U.S. Supreme Court in 2016.

But the law had some effect: The number of facilities offering abortions went from 44 in 2014 to 35 in 2017, representing a 25 percent decline, according to the Alan Guttmacher Institute.³ Also in 2017, the state legislature passed House Bill 214, which required women to pay an extra premium for their health insurance if they planned to get an abortion. The aim was to ensure that abortion opponents weren’t having to subsidize the procedure through their health plans.⁴

As abortion access has diminished in Texas, it has fallen to places like the largest Planned Parenthood clinic in the country—an abortion super center on Houston’s Gulf Freeway that has ambulatory capabilities—to pick up the slack. Abortion centers have been concentrated in large cities, leaving some reaches of the state, especially its western half, without a clinic closer than 200 miles.

In early August of this year, the Guttmacher Institute estimated that if SB 8 is not struck down by the Supreme Court, the average one-way driving distance to a clinic would rise from 12 miles to 248 miles, affecting women in rural areas the most.⁵

Interestingly, it was in a rural area that the sanctuary cities movement began

back in June 2019 in the East Texas city of Waskom near the Louisiana state line. The pace of sign-ups rapidly increased in 2021 once the Democrats won the White House.

“Ever since the Biden Administration said they wanted abortion access in every zip code, we’ve seen quite a bit of steam,” said Mark Lee Dickson, the movement’s founder.

Dickson, 36, wears a backwards baseball cap jammed down on his brown hair, sports a beard, and has been identified as the pastor of a Sovereign Love Church in Longview, Texas (which had no online listing that I could find). He has expended so much energy promoting the sanctuary cities concept that the *Huffington Post* described him as a “traveling salesman” for abortion bans.⁶ He’s hoping that eventually hundreds of cities will join up.

The sanctuary cities idea started when proliferators in East Texas got wind that Hope Medical Group, a large abortion facility in Shreveport, La., might establish a clinic just across the state line. Waskom would have been on the road leading to it.

“There was concern. There were prior statements made by the facility, which led Texans to believe the center might expand,” said Dickson, who reached out to the mayor of Waskom.

“He asked, ‘What I can do?’ and I said pass an ordinance outlawing abortion within city limits.”

Slowly, the idea began to spread, chiefly because it was doable and a good legal stratagem for making it difficult for any abortion facility to set up shop. The sanctuary cities movement relies on the same legal stratagem used by SB 8: a “private enforcement mechanism” authorizing private citizens to enforce the law via civil lawsuits against anyone violating it. In other words, if anyone does get an abortion within city limits, an aborted child’s parents, grandparents, and siblings can sue anyone who aids and abets. The mother is exempt from being sued.

The effort slowly gained one small municipality after another until a big fish—the Texas Panhandle city of Lubbock, with roughly a quarter-million inhabitants—signed up. In September 2020, a group of citizens filed a petition proposing an ordinance. The ink on the petition was barely dry when Planned Parenthood opened a clinic in town and started doing abortions.

Not surprisingly, the city council voted unanimously⁷ in a marathon meeting in November to reject the ordinance on the grounds that it violates state and U.S. constitutions. But the city’s charter allows voter-proposed ordinances to be put up for vote, and backers placed it on the ballot this year. On May 1, 62 percent of the voters favored the ordinance, which went into effect June 1. Planned Parenthood filed a complaint against the city to block the ordinance, claiming it placed an undue burden on women. But, in a 50-page ruling, U.S. District Judge James Wesley Hendrix dismissed the case on the grounds that Planned Parenthood

lacked standing to sue the city.

The reason goes back to the “private enforcement” concept. There are plenty of ways to stop a local, county, or state government from enforcing a law according to what’s known as “public enforcement.” But private enforcement works differently. As Hendrix pointed out in his ruling, Planned Parenthood had to show injury based on the city’s conduct. But the city had nothing to do with the ordinance; moreover, the ordinances were being enforced by private citizens, not the state. This made it tough for Planned Parenthood to sue a government on constitutional grounds.

Animal rights groups have long used the idea of private-citizen enforcement, notes Wesley Smith in an essay on the Discovery Institute website.⁸ Several have pioneered the concept of “animal standing,” which means that animals have rights equal to those of people and that their human allies can file lawsuits on their behalf. It was only a matter of time before someone thought to apply the concept to abortion.

The idea of “sanctuary cities” in recent decades comes from the immigration movement, whereby city or county officials refuse to hand over illegal immigrants for deportation. A 2017 *Washington Post* article⁹ estimated that 69 such “sanctuary counties” exist—chiefly in California, the Seattle area, Miami, New York, Chicago, Denver, Las Vegas, and Washington, DC. (None of the 69 are in Texas.)

The Texas version of sanctuary comes from the “cities of refuge” referred to in the biblical account in the book of Joshua, chapter 20, referring to cities that provide protection from avenging relatives for people who unintentionally commit manslaughter. The sanctuary cities laws would instead protect children from those who intentionally wish to murder them through abortion.

The Lubbock ordinance provides a good example of what actions these laws consider to be illegal. It reads in part:

(1) ABORTION—It shall be unlawful for any person to procure or perform an abortion of any type and at any stage of pregnancy in the City of Lubbock, Texas.

(2) AIDING OR ABETTING AN ABORTION—It shall be unlawful for any person to knowingly aid or abet an abortion that occurs in the City of Lubbock, Texas. This section does not prohibit referring a patient to have an abortion which takes place outside of the city limits of Lubbock, TX. The prohibition in this section includes, but is not limited to, the following acts:

- (a) Knowingly providing transportation to or from an abortion provider;
- (b) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;
- (c) Providing money with the knowledge that it will be used to pay for an

abortion or the costs associated with procuring an abortion;

(d) Coercing a pregnant mother to have an abortion against her will.

Damages are a minimum of \$2,000, not including court costs and attorney's fees.

How these ordinances—which allow the aborting mother to go scot-free yet prosecute those who help her—will be carried out remains to be seen. What they have primarily accomplished is to make abortion within the limits of a sanctuary city too risky.

The concept of rule-by-ordinance is not completely new, according to Dickson.

“In Naples, Florida, you cannot feed the ducks. It is against the law,” he says. “You cannot throw candy in a parade in Odessa, Texas. It is against the law. Cities pass ordinances all the time.”

(Speaking of Naples, some residents wish to make that municipality Florida's first sanctuary city. They plan to keep requesting an abortion ban at city council meetings until such an ordinance be passed. So far, the council isn't buying it.¹⁰)

Each small town is only a dot compared with the large abortion-friendly cities like Austin and Houston, Dickson adds, but together they begin forming sizeable clumps of real estate where one cannot get an abortion. And what happens in Texas doesn't stay in Texas; “All over the United States, even places outside the USA have reached out to us,” Dickson says, for help on how they can implement similar laws.

The immediate strategy is to confine abortion centers to the cities and to send a message to mega-groups like Planned Parenthood that you don't mess with rural Texas.

“For Planned Parenthood to open an abortion facility in an extremely conservative area—it just didn't fly,” he said. Conversely, “If we were to attempt this in Austin, it'd be interesting.”

Austin is labeled as a “city of death” on the sanctuary cities website because of its zeal in providing “abortion logistics” funding to cover childcare, hotel, and gas for women seeking abortions. In 2019, it was the first city in the country to amend its budget to provide abortion grants to women seeking them.

Although more cities are in the pipelines to outlaw abortion within their limits, there have been setbacks, such as with Omaha, Texas, which was the second city to pass a sanctuary cities ordinance. Its city attorney then persuaded the city council to substitute a non-binding resolution in its place.

But there are others that foresee a storm and want abortion providers to understand where the no-go zones are. As Keri Schunk, the mayor of Blue Hill, a city in south-central Nebraska, said to KNOP-TV, the scene on the ground could change at any time.¹¹

“I wasn't sure it was necessary for small-town Blue Hill. Would anyone ever

open an abortion clinic here?” she asked. “Probably not, but I’ve learned being proactive is much easier than being reactive. Today, more than ever, we must strive for a better tomorrow, or society will suppress and surpass us.”

NOTES

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Closed Clinics and “Reduced Access” Save Lives

Randall K. O'Bannon

In recent years, abortion advocates have finally begun to admit that laws protecting the interests of unborn babies and their mothers may have closed some clinics*; however, they continue to assert that these laws have had minimal impact on abortion rates. At most, they say, this may have kept a few mothers from having abortions, but the more significant impact was in pushing the rest of the women to delay their abortions because of the need to travel great distances to obtain later, riskier, and more expensive abortions.¹

Many of these claims were put to the test in 2011 with the passage of legislation in Texas imposing limits on the disbursement of family planning funds and in 2014 with the imposition of basic safety regulations on abortion clinics. Together, some say, these restrictions were responsible for closing half of the abortion clinics in Texas.

What was the real impact of that legislation?

There is a stronger correlation between the number of clinics and the number of abortions than abortion advocates acknowledge. Multiple factors may play a role,² but the past four-plus decades since *Roe* clearly show that the number of abortions has risen when the number of “providers” increased—and has dropped once the number of clinics, hospitals, and private abortionists declined.

The gravity of this situation for the abortion industry is apparent from their multi-pronged effort to boost the ranks of abortion providers and keep the industry going. Consider their determined legal challenges to safety regulations they believe are closing many of their clinics,³ and their coordinated media campaign complaining about closed clinics and the distance women have to travel to obtain abortions.⁴ Consider also the explicit focus of their efforts to expand abortion education at America’s medical colleges, as they seek to replace aging and retiring abortionists.⁵

Attempts to do more with fewer personnel are behind the nationwide effort to

*As far as National Right to Life is concerned, the real issue is whether these clinics perform or facilitate abortions, not whether they are closed. If they ceased performing abortions, but continued to offer contraception and other services, as some may have done in Texas (*Dallas Morning News*, 3/21/16), they may have contributed to the abortion decline while remaining open. But because activists, studies, and the media have focused on clinic closings and used this as the metric to gauge abortion availability or “access,” and because closed clinics would obviously no longer be providing abortions, this is the measure that will be the focus of this report.

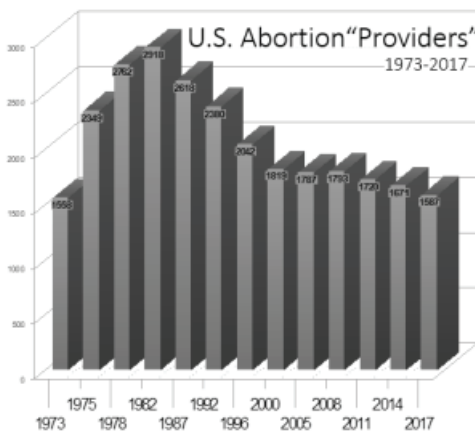
build giant regional mega-centers, where a handful of doctors, nurses, or physician assistants can handle a large volume of abortion cases;⁶ another strategy is to gain government authorization for at-home do-it-yourself abortions managed by telemedicine, with pills delivered by mail.⁷

All are part of the industry's efforts to boost abortion "access"—to bring abortion to communities where it is not currently available, communities where there was insufficient demand to sustain a clinic or where residents decided, implicitly or explicitly, that they didn't want or need an abortion clinic in their town.

The abortion industry's concern about access is well founded, because statistics consistently show that fewer clinics usually mean fewer abortions. And thus more lives are saved as a result of those policies and conditions that close the clinics and thin the ranks of abortionists.

Go back 30 or 40 years and it is easy to see the correlation between the number of abortion clinics and the number of abortions (see Figure 1 and Figure 2 below).⁸ Once abortion was legalized, the number of abortion providers (a designation that includes clinics, hospitals, and private doctors' offices performing abortions) soared, reaching a high of 2,918 in 1982. Not surprisingly, several abortion measures peaked about this time.

A Historical Connection



Abortions Fall after Number of Providers Drops

Annual abortions first climbed over 1.5 million in 1980 and hovered there before posting an all-time high of 1.6 million in 1990. Abortion rates (the number of abortions per thousand women of reproductive age) hit their peak earlier, in 1980 and 1981, at 29.3 per thousand. The abortion ratio—the number of abortions for every 100 pregnancies ending in abortion or live birth (as defined and

measured by the Guttmacher Institute)—peaked at 30.4 in 1983.

As the number of providers fell, so did abortion indicators. Raw abortion numbers took a bit longer to begin falling, but abortion rates and ratios began to drop almost as soon as the number of providers did.

The number of abortions fell below 1.5 million for the first time in a dozen years in 1993 and never hit that mark again. This was just a year after Guttmacher showed the number of providers falling to 2,380. By 1996, when the number of providers had fallen to 2,042, the number of abortions was at 1.3 million. In 2001, the year after the number of providers dropped to 1,819, the number of abortions dropped into the 1.2 million range.

Though (owing to the addition of chemical abortion to many new practices) the decline in providers was somewhat more modest for the next two decades, the number of abortions continued to fall, hitting 1.15 million in 2009, 1.06 million in 2011, 0.96 million in 2013, dipping just under 0.9 million in 2015, and finally sinking to 0.86 million in the most recent Guttmacher report for 2017, when Guttmacher found just 1,587 “abortion providing facilities.”

Abortion Rates and Ratios More Responsive

Abortion rates and ratios seem even more sensitive to “provider” changes, falling almost immediately when the number of abortionists declined.

When the number of providers dropped in 1987, so did abortion rates and ratios, by 6.3 percent and 4 percent respectively. By 2000, when the number of providers had dropped by about a third from its 1982 peak, the abortion rate had fallen 26 percent, to 22.4 abortions per thousand women of reproductive age, and the abortion ratio had dropped 18.3 percent, to 24.5 abortions out of every 100 pregnancies ending in abortion or birth.

In the latest Guttmacher report, with just 1,587 providers in 2017, the abortion rate reached an all-time low of 13.5 per thousand, the lowest rate recorded since the court legalized abortion in *Roe v. Wade* in 1973 and a figure less than half what it was at the peak of 29.3 set in 1980 and 1981, when the country may have had its peak number of “providers.”

The abortion ratio, 18.4 abortions for every 100 pregnancies ending in abortion or birth, was also lower than it had been at any time since *Roe*, and well off the peak of 30.4 set in 1983, the year after Guttmacher showed the providers peaking.

A Favorable Feedback Loop

While historically it looks as if the drop in providers precedes the drop in abortions and that effect appears to extend into the future, there is also clearly some symbiotic symmetry in place, with reductions in the number of providers leading to reduced demand and then reduced demand leading to fewer clinics.

The takeaway here is that *if there are fewer providers—fewer clinics, fewer abortionists—fewer women will seek abortions. If fewer women seek abortions, there will be less business to go around for abortion “providers,” inevitably leading more abortion clinics and practices to close. And that will in turn mean fewer women getting abortions, which will again cause more clinics to close, and so on.*

While this is not the full story behind the massive drop in abortions over the past thirty years, it is clearly a major part of it.

What Happens When Clinics Close

This supply and demand dynamic is something to keep in mind when considering claims of abortion advocates about the effect of clinic closures, the distance women travel to obtain abortions, or the “need” for telemedical abortions.

When an abortionist retires without a replacement, when a clinic closes rather than renovating in order to comply with new safety regulations, when a national chain consolidates several smaller clinics (perhaps with plans to build a large modern regional mega-center), the numbers will likely go down.

Some women may turn to different “providers,” try out the new clinics, order abortion drugs over the internet, or try the new telemedical chemical abortions if those are available in their state. A few will end up having later, more expensive, higher risk abortions. But some will forgo abortion, go ahead with the pregnancy, and give birth. The only question is how many will do so.

Statistics Show More Babies Survive

The idea that fewer abortion clinics will mean the birth of more babies is more than just wishful thinking or even a logical conjecture.

Three California economists who looked at the effects of the Texas legislation passed between 2011 and 2014 on abortion and family planning centers found not only that several clinics had closed (the authors stated that half the state’s abortion clinics had closed by 2015, though some closures may have been due to causes other than the legislation), but that abortion rates had declined by some 20 percent. More important, data from their analysis found that a “reduction in abortion access” (a reduction in the number and thus the density of abortion providers) in Texas correlated with a 3 percent increase in births.⁹

This is significant because, while the fall in abortion rates could be explained by women getting abortions out of state or attempting to self-administer an abortion, or even by increased use of contraception, an actual increase in birth strongly suggests that “reduced abortion access” had the effect of prompting a number of women to carry their children to term.

Looking just at the impact of distance to the nearest “family planning” clinic (though it is not specified, the implication seems to be that this is one offering

abortion), the authors concluded that the lack of such a clinic within 25 miles is associated with a 1 percent increase in births.

Though the percentages sound modest, the actual numbers are impressive: 3 percent of the nearly 400,000 births to Texas residents in 2014 (Texas Department of State Health Services) would represent 12,000 more babies being born rather than aborted. Even a 1 percent increase would mean some 4,000 additional babies surviving.

The California economists did not go so far as to attribute the whole increase to limits on “abortion access,” but were willing to estimate that a significant number of the additional births (more than 3,200) were likely a result of legislation passed by the state.¹⁰

By any measure, thousands of unborn lives were saved.

Percentages Don't Tell the Whole Story

Measuring birth rates against abortion rates is legitimate given the focus here, but the use of percentages can mislead us about the magnitude of the shift due to the relative size of the data fields.

Figures from the Guttmacher Institute show that 73,200 abortions were performed in Texas in 2011, but just 55,230 in 2014, a drop of 17,970 or 24.5 percent. This doesn't adjust for population changes or the number of abortions that residents of Texas got in other states or that residents of other states got in Texas, but it does offer tangible evidence of the impact of clinic closings and other social or policy changes.

A 3 percent increase in births does not seem to be as big an effect as a 24.5 percent drop in abortion rates; however, because births outnumbered abortions in Texas by more than seven to one, the seemingly small size of the effect is an illusion.

As noted above, considered in terms of raw numbers, 3 percent more births in Texas in 2014 would represent about 12,000 additional babies being born. At the same time, a 24.5 percent drop in abortions during the same time frame meant nearly 18,000 fewer unborn babies being killed.

If those figures were determined to be actual, as much as two-thirds of the reduction in the number of abortions in Texas between 2011 and 2014 could have been because of women choosing to give birth to their babies instead of aborting them!¹¹

Even if only 3,230 of those additional births were due to Texas legislation defunding family planning or regulating abortion clinics, as the California economists asserted, that alone would still represent 18 percent of the drop in abortions between 2011 and 2014, a substantial number of lives saved.

Increased Delay, Increased Risk?

Abortion advocates complain that one of the greatest travesties of these laws and policies limiting abortion “access” is that they cause women to delay their abortions, thereby increasing their cost and risk.

To assess this prediction, abortion advocates attempted to quantify the impact of pro-life Texas legislation on the timing of women’s abortions. Although the years and data are not precisely the same, researchers compared the number of abortions at 12 weeks or more (essentially second-trimester procedures) from the twelve months before (11/11 - 10/12) implementation of Texas’ House Bill 2 (HB2) legislation to another twelve-month period after HB2 had fully gone into effect (11/13-10/14). They found that the law had the effect of increasing later abortions by 907, from 6,813 to 7,720 per year, an increase of around 13.3 percent.¹² Although the researchers continued to assert that later abortions were “safe,” they expressed concern about the higher risk of complications with these abortions.

The source they cite for this increased risk puts the risk of complications for second-trimester abortions at 1.47 percent, versus a risk of 1.26 percent for standard first-trimester vacuum aspiration abortions.¹³ The risk of a “major complication” (defined as a “serious unexpected adverse event requiring hospital admission, surgery, or blood transfusion”) for these later abortions was 0.41 percent.

Applied to the 907 additional women having later abortions identified in the earlier study, this means about 13.3 women facing complications with second-trimester abortions versus just 11.4 of those women who would have encountered such a risk with a first-trimester suction abortion.** In essence, using their data, this means that perhaps two or at most three additional women in Texas had complications in that year because of the law, with the likelihood that these complications would not have qualified as “major.”

Thus, it can be inferred from the data that these new restrictions on “abortion access” may have meant perhaps two or three additional women facing minor

**This assumes, rather charitably, that all first trimester abortions were surgical suction abortions with the lower risk rate, though we know that a considerable portion of these were riskier chemical abortions. We know that nationally, 90 percent or more of all abortions in 2011 were first-trimester procedures and that about a quarter overall were “early medication abortions” using abortifacients like mifepristone, which Upadhyay, et al. (note 13) found came with a considerably higher 5.1 percent complication rate. If these percentages held for Texas, 227 of the 907 women newly facing second trimester abortions in Texas in 2014 would have faced decreased risk in switching from earlier chemical abortions to later surgical abortions.

If it is the case that many of the 18,000 or so abortions that disappeared in Texas from 2011 to 2014 were chemical abortions, as Daniel Grossman testified in U.S. District Court in the lead up to *Hellerstedt* (at that point *Whole Woman’s Health v. Lakey*, Direct Testimony of Daniel Grossman M.D., filed 8/4/14, U.S. District Court for the Western District of Texas, Austin Division), then the net result would have been not a decrease, but an increase in safety, for those women who would have had chemical abortions “forced” to seek second-trimester surgical abortions.

complications and a few more dealing with the increased hassle and costs of later abortions. However, data from the same set of Texas women tell us the policies that led to that outcome may very well have saved the lives of at least 3,200 and as many as 12,000 unborn children or more a year, which should weigh heavily in the assessment of those policies.

Lives Hang in the Balance

Stephanie Toti, the lawyer who challenged Texas' abortion clinic safety measures before the Supreme Court in *Whole Woman's Health v. Hellerstedt* in 2016, argued that laws such as those the legislature passed in Texas actually had the effect of increasing risks to women's health by pushing them to pursue later abortions.¹⁴

She won her case, and the Court gutted key elements of Texas' abortion law requiring abortionists to have admitting privileges at local hospitals and requiring that their clinics meet the same safety standards as other ambulatory surgical centers. The majority opinion in that case, authored by Justice Stephen Breyer, concluded that the Texas law was responsible for the closing of half of the abortion clinics in the state, creating an "undue burden" for women seeking abortion.¹⁵

Since the case was decided, a few clinics have reopened in Texas and a couple of newer ones have been built (*Kaiser Health News*, 11/18/19). The consequence? The most recent data from Guttmacher shows abortions increasing in Texas in 2017, and data from the U.S. Centers for Disease Control for 2018 and 2019 hint at increases in the years to come.

The majority in *Hellerstedt* took for granted that women's inability to readily and conveniently abort their unborn children was a negative outcome, never balancing out the benefit that might accrue in unborn lives saved. Our evidence does appear to show that the laws and circumstances closing clinics may lead some women to travel further and have later, more expensive abortions, with perhaps a very few facing some increased risk of complication or injury. But it also shows the consequence of thousands of women forgoing abortion and giving birth to their children.

These are not women "stuck forever with a baby they do not want." Diana Greene Foster, principal investigator for the infamous "Turnaway Study" that tracked a thousand women who sought but were "denied abortions," found that five years after being "denied" abortion and bearing their children, only 4 percent of women were still wishing they could have aborted their child.¹⁶ The rest had come to terms with their situation and may even have come to cherish those children spared the abortionist's knife. A child living rather than aborted is a good thing, and most mothers—even those who at one time thought abortion was the "choice" they wanted and needed—eventually come to believe so.

The proper assessment of any policy that closes clinics and reduces reliance on abortion as the solution to unplanned pregnancy must also count its considerable benefits. The assault on clinic safety rules, the building of new megaclinics, the promotion of telemedical and do-it-yourself abortions, the recruitment and training of new abortionists, the push to fund abortion giants—all are part of the effort to reverse this trend of closing clinics, to rebuild the industry and make abortion more “accessible.”

Hopefully, many of this country’s young mothers have found that this aggressive abortion-industry rebuilding campaign is one that they and their unborn children can well live without.

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1. Joerg Dreweke, “U.S. Abortion Rate Continues to Decline While Debate over Means to the End Continues,” *Guttmacher Policy Review*, Vol. 17, No. 2 (Spring 2014). Elisabeth Nash and Joerg Dreweke, “The U.S. Abortion Rate Continues to Drop: Once Again, Abortion Restrictions Are Not the Main Cause,” *Guttmacher Policy Review*, Vol. 22 (2019). https://live.guttmacher.org/sites/default/files/article_files/gpr2204119.pdf, accessed 3/9/21.
2. Randall K. O’Bannon, “Abortion Establishment’s alarm over clinic closings conveniently omits what is really happening and why,” *NRL News Today*, February 25, 2016. At <https://www.nationalrighttolifenews.org/2016/02/abortion-establishments-alarm-over-clinic-closings-conveniently-misses-what-is-really-happening-and-why/>. See also O’Bannon, “Issues raised as the Supreme Court Considers Texas Abortion Law—Part 2: A Dying Business,” *NRL News Today*, March 9, 2016, at <https://www.nationalrighttolifenews.org/2016/03/issues-raised-as-the-supreme-court-considers-texas-abortion-law-part-2-a-dying-business/>, accessed 3/10/21.
3. While Elizabeth Nash and Joerg Dreweke argue in “The U.S. Abortion Rate Continues to Drop: Once Again, State Abortion Restrictions Are Not the Main Driver,” *Guttmacher Policy Review*, Vol. 22 (September 18, 2019), www.guttmacher.org/gpr/2019/09/us-abortion-rate-continues-drop-once-again-state-abortion-restrictions-are-not-main, that regulations are not primarily responsible for declining abortion rates, they do say that “there appears to be a clear link in many states between abortion restrictions—and TRAP [‘Targeted Regulation of Abortion Providers’] laws in particular—and clinic closures . . .” Their failure to see the connection stretching back decades between declining numbers of providers and dropping abortions comes from failing to see how regulations from one state may impact its neighbors and the overall culture, leading to abortion drops across the board.
4. Benjamin P. Brown, “Distance to an Abortion Provider and Its Association with the Abortion Rate: A Multistate Longitudinal Analysis,” *Perspectives on Sexual and Reproductive Health*, Vol. 52, No. 4 (December 2020). Brown claims that each additional mile of distance between a potential client and an abortion “provider” was associated with a 0.011 decrease in the abortion rate.
5. Ariana H. Bennet, et al., “Interprofessional Abortion Opposition: A National Survey and Qualitative Interviews with Abortion Training Program Directors at U.S. Teaching Hospitals,” *Perspectives on Sexual and Reproductive Health*, January 7, 2021, <https://onlinelibrary.wiley.com/doi/abs/10.1363/psrh.12162>. Bennet and team note high levels of internal opposition to abortion training at U.S. medical schools and argue that “Interventions are needed that prioritize patient’s needs . . .”
6. How this works is spelled out in O’Bannon, “Fewer clinics in 2020, but Planned Parenthood performing more abortions, later abortions, than it was ten years ago,” *NRL News*, April 20, 2020, at <https://www.nationalrighttolifenews.org/2020/04/fewer-clinics-in-2020-but-planned-parenthood-performing-more-abortion-later-abortion-than-it-was-ten-years-ago/>, accessed 3/10/21. Key elements of the strategy are also revealed by sympathetic industry sources in Erin Heger, “The Strategy Behind Where to Build Abortion Clinics,” *Rewire*, October 11, 2019, at <https://rewirenewsgroup.com/article/2019/10/11/the-strategy-behind-where-to-build-abortion-clinics/>, accessed 3/10/21.
7. Ushma D. Upadhyay, et al., “Adoption of no-test and telehealth medication abortion care among independent abortion providers in response to COVID-19,” *Contraception X*, published online November

21, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7718446/pdf/main.pdf>.

8. Abortion advocates acknowledge both drops but wish to argue that other factors may play a role in the decline. In theory, many elements can contribute to drops (or increases) in abortion. Population and demographic shifts—increases, decreases in population, an aging of the population of reproductive age, an influx of immigrants, migration between urban, suburban, and rural areas, etc.—can all play a part in not just the number, but the distribution of abortions. Some of that may have happened here, but general trends show population increasing, particularly among those groups having higher abortion rates (blacks, Hispanics), making this unlikely as a main cause of abortion or clinic declines. Anything impacting overall fertility, reducing or increasing pregnancy—contraception, abstinence campaigns, cultural or biological factors (e.g., sexually transmitted infections and diseases, social media’s reduction of in-person relationships) that make reproduction more or less likely—will also impact abortion rates. Increased and/or better use of birth control is the explanation most frequently offered by abortion advocates. Though contraception may play some role in reducing pregnancy rates, experts admit this cannot fully explain the drop (see DG Foster, “Dramatic Decreases in U.S. Abortion Rates . . .,” *American Journal of Public Health*, December 2017). Laws or policies that encourage or discourage abstinence, birth control, childbearing, abortion, or family formation by regulating or funding any aspect of these can impact both the number of pregnancies and their outcome. That births have generally fallen in parallel to abortions leads many to think that contraception, and the use of long-acting reversible contraception (LARCs) in particular, is the explanation for falling abortion rates, but this is not a neat one-to-one correspondence. Other factors besides birth control can reduce pregnancy (see above) and there are times over the past thirty years when births rose while abortions continued falling. It is worth noting that births in Texas were indeed up during the time period in question, and abortion advocates on the ground admitted that pro-life laws, rather than contraception, had a major impact. Dr. Daniel Grossman, an abortion advocate from the University of California San Francisco who did research on the impact of Texas legislation, told the *Los Angeles Times* (1/17/17): “In Texas I don’t think that the decline in abortion has been related to improvements in contraceptive use . . . I think it has more to do with barriers to accessing abortion.”

9. Stefanie Fischer, Heather Royer, and Corey White in Working Paper 23634, “The Impact of Reduced Access to Abortion and Family Planning Services on Abortion, Births, and Contraceptive Purchases,” National Bureau of Economic Research, Cambridge, MA (December 2017), p. 5. Document available at https://www.nber.org/system/files/working_papers/w23634/w23634.pdf, accessed 4/19/21.

10. Fischer, Royer, and White, p. 35.

11. Though theoretically it is possible that, finding no clinic in the immediate area, some Texas women could have gone to clinics in neighboring states, statistics do not support this happening on a scale to account for sizeable declines in that state’s abortions. According to the Guttmacher Institute, abortions in Texas’ border states of Colorado (-1,550), Louisiana (-2,060), New Mexico (-530), and Oklahoma (-530) all fell by at least several hundred from 2011 to 2014, the period being discussed here. Only Arkansas and Kansas showed what appeared to be a temporary blip, increasing by 220 and 300 between 2011 and 2014, respectively (though the Centers for Disease Control, normally undercounting Guttmacher’s state totals, showed Kansas having an overall decrease of 557 between 2011 and 2014). However, the tiny increases in these two states are nowhere near enough to account for the nearly 18,000 fewer abortions performed in Texas in 2014 than in 2011. Some have argued that the reductions in the numbers of abortions have been offset by pregnant women, particularly those living near the border, having abortions at home using pills brought back from Mexico. Though it is conceivable that this may have occurred in some cases, it seems unlikely to explain all or even most of the drop. Advocates of abortion published studies that gave the impression that there was a sudden surge in attempted DIY abortions, but their actual data showed only that a certain, small percentage of women may have attempted (or simply investigated the possibility of) self-abortioning at some point during the twenty or thirty years of their reproductive lives (see Randall K. O’Bannon, “Study does not demonstrate self abortions suddenly increased at the passage of pro-life law,” National Right to Life News, December 2015, p. 12 at nrlc.org/uploads/NRLNewsDec2015.pdf). And though many stories about self-managed abortions appeared in the wake of Texas legislation, accounts of these do-it-yourself (DIY) abortions with pills brought back from the border actually predate HB2 and Texas’ earlier family planning funding restrictions (e.g., Laura Tillman, “Southern Border Brings Easy Access to Abortion Inducing Drugs,” *Brownsville Herald*, 3/25/08). Even if a number of women turning to DIY abortion could explain some of the abortion decreases, it would still fail to account for the sudden increase in births that show up in Texas statistics at this same point.

12. Kari White, et al., “Change in Second-Trimester Abortion After Implementation of a Restrictive State Law,” *Obstetrics & Gynecology*, Vol. 133, No. 4 (April 2019), pp. 771-779.

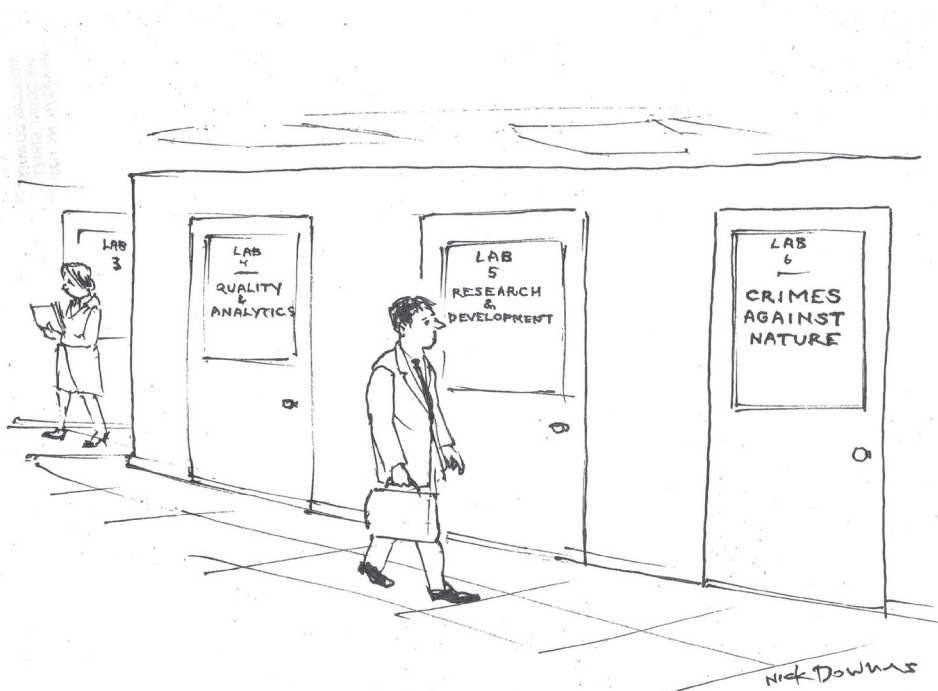
13. Ushma D. Upadhyay, et al., “Incidence of Emergency Department Visits and Complications After Abortion,” *Obstetrics & Gynecology*, Vol. 125, No.1 (January 2015), pp. 175-183, at 177. We should note for the record that this lower rate of 1.26 percent was specifically for first-trimester aspiration abortions;

first-trimester chemical abortions employing “medications” like mifepristone were found to have a complication rate of 5.19 percent, considerably higher than either those first-trimester aspiration abortions or those second-trimester or later surgical procedures. This should be kept in mind when considering the abortion industry’s efforts to promote telemedical or at-home chemical abortions as a substitute for in-clinic abortions.

14. Stephanie Toti, senior counsel for the Center for Reproductive Rights, argued against the Texas law, specifically making the claim that the closure of clinics would lead to more women having later, riskier abortions. According to the Official Transcript of Oral Arguments of *Whole Woman’s Health v. Hellerstedt*, argued March 2, 2016, before the Supreme Court, Toti said: “there is evidence in the record that following implementation of the admitting-privileges requirement, in the six-month period following, there was an increase in both the number and the proportion of abortions being performed in the second trimester. So by delaying women’s access to abortion, these requirements are actually increasing the risks that women face” (at page 22). Toti and her team were able to convince the court to overturn the Texas regulations.

15. This was disputed by Justice Samuel Alito, who, along with Justice Clarence Thomas and Chief Justice John Roberts, rejected the claim that this law imposed an “undue burden” and pointed out that several clinics closed prior to the law’s passage and may have closed for other reasons, such as earlier state funding cuts, the retirements of abortionists, or even reduced demand.

16. Diana Greene Foster, *The Turnaway Study* (Scribner: New York, 2020), p. 126. The 4 percent figure was likely inflated by women who allowed their child to be adopted. Five years out, 15 percent of those allowing their child to be adopted still wished they could have aborted, compared to just 2 percent of those who chose to parent.



The Case for One More Child:

Why Large Families Will Save Humanity

Ross Douthat

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Remembering Father Kaz

Father Kazimierz Apolinary Kowalski (February 18, 1952-October 4, 2021) was a priest in the Archdiocese of New York, a Human Life Foundation board member and a dear friend to many of us, as well as to legions of New Yorkers.

His invocation here from our 2008 Great Defender of Life Dinner is vintage Kaz, and brings fond memories.

FATHER KAZIMIERZ KOWALSKI:

[After hearty applause] I wish my parishioners would do that after my homilies. Actually my name is Kazimierz Apolinary Piotr Kowalski. It's an old Irish name. This is a dinner that I always look forward to, remembering Jim McFadden, as we remember and honor Defenders of Life, and sharing very fine company together. Of course the food and beverages are a plus. You know, sometimes I'm asked where I was originally from and I guess since my pronunciation may not hint of any particular region, often I respond by saying that I came with my mother, father and sister Angela from Neumunster, Schleswig Holstein in December of 1951. Oh, they would say, you were born in Germany! And then I would explain well, no, I was conceived in Germany but I made my debut at Bellevue two months after we arrived. I'm just the one who didn't need a green card. And my green-card carrying sister is sitting next to me this evening. And by the way, you know when I told that story to Cardinal O'Connor—you know, he had kind of a wry sense of humor—I told him that story—and he took note of Bellevue, and he said well, Kaz, that does explain a lot of things. Let us stand to pray.



Requiescat in Pace.

Another Strike Against Eugenic Abortion

Mary Rose Somarriba

When a woman attends the standard 20-week prenatal ultrasound appointment, it is usually with a sense of anticipation. You get to see your baby on-screen while the ultrasound tech takes measurements, and if you're lucky, you might even get a good look at your preborn baby's face.

So I was frustrated when I attended my 20-week pregnancy ultrasound in March and a new doctor I'd never met before came in and questioned whether it really made sense to add this latest person to my family. Because of some unknowns about my child's genetic risk for cystic fibrosis (CF), she seemed focused on possible health risks that, she seemed to think, could convince me not to continue my pregnancy.

"You are a carrier for cystic fibrosis," she said, "and we don't have your husband's results. If he came in for a blood test, we could know if he is a CF carrier too."

"I know," I responded. "I don't really need it, because it won't make a difference to me."

But she kept pressing the issue. She seemed to think the relative probability of CF would be essential information for me to determine whether to continue this pregnancy.

"Would knowing the chance of CF for my child give us a head start in providing care for her?" I asked.

"No," she replied, adding, "Your pediatrician would inform you of care options after birth."

Later, I wondered if I had imagined that she was pressuring me to consider terminating my wanted child. But in the visit notes I later read in my online patient chart, I saw she had typed on my record, "the patient is committed to the pregnancy."

Thankfully, she was not my regular OB-GYN but just one of the doctors to follow up after ultrasounds. But how many vulnerable moms had she counseled like this? If a mom was feeling anxious about the challenges of raising a special-needs child, would this doctor push her over the edge into ending the pregnancy based on possible CF, Down syndrome, or another estimated health risk, even if she wanted the child? We don't normally recommend basing permanent health decisions on fears of the unknown. In my view, this doctor went

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beyond providing medical care to suggesting some lives are more worthy of a chance at life than others.

Eugenic Abortions Are Receiving Greater Scrutiny

According to a law in my state of Ohio, doctors are prohibited from performing abortions if the mother has informed the doctor the reason is fear of her child having Down syndrome. A panel of judges stopped the law from being enforced in the fall of 2020, but in April 2021, a U.S. Circuit Court of Appeals reversed the decision, allowing the law to be enforced again.

Laws like this are part of a trend of abortion restrictions for cases when the choice is made for eugenic reasons, such as the preborn child's race, sex, or disability. According to the Guttmacher Institute, eleven states have similar laws restricting abortions for similar reasons. These laws bring into sharp focus the conflict between abortion advocates and disability-rights advocates. When abortions are permitted or encouraged because of a preborn child's risk of disability, it suggests that the lives of people with disabilities are less valuable than those of people without disabilities.

Eugenic abortion made headlines when Iceland boasted that it has a near-zero rate of children born with Down syndrome. However, the country's Down syndrome numbers are low not because of treatments or cures for the congenital abnormality, but because of prenatal testing and elective abortion. In a December 2020 *Atlantic* report, Sarah Zhang interviewed Grete Fält-Hansen, a mother of a Down syndrome child who makes herself available to share her experience with moms carrying children with Down syndrome who are considering terminating their pregnancies. While Fält-Hansen passes no judgment on those who choose to abort, Karl Emil, her high-functioning 18-year-old son, is acutely aware that people are judging whether lives like his are worth living. "The decisions parents make after prenatal testing are private and individual ones," writes Zhang. "But when the decisions so overwhelmingly swing one way—to abort—it does seem to reflect something more: an entire society's judgment about the lives of people with Down syndrome. That's what I saw reflected in Karl Emil's face."

In the United States, prenatal genetic testing has become a staple of prenatal care, especially for moms over the age of 35. The testing can identify if the preborn child has chromosomal abnormalities such as Down syndrome or other conditions, as well as estimating the risk that the child could be born with a disease like cystic fibrosis. While this is treated as a basic part of maternal and prenatal care, the increase in genetic testing has not correlated with advances in treatment for prenatal children conceived with these conditions; the only option many women are offered upon probable diagnosis is to terminate the pregnancy.

This is why laws like the one recently reinstated in Ohio respond to a problem that exists not just in abortion clinics, where women are provided with abortions

for any reason, but in mainstream OB-GYN medicine. While laws like Ohio's prohibit doctors from aborting the child if the woman seeking abortion has disclosed a eugenic motive, they are based on the assumption that it is the mother who normally presses for eugenic abortion, rather than the doctor or healthcare professional. In other words, this abortion prohibition is premised on the belief that abortion for eugenic reasons is unbefitting of a medical provider and has no place in healthcare. Traditionally, this makes sense, since the medical profession is supposed to support the health of patients, without singling out some people as being more "fit for care" than others.

Meanwhile, Planned Parenthood Says It Is Disowning Eugenics

In April 2021, Planned Parenthood president Alexis McGill Johnson wrote an opinion piece for the *New York Times* whose headline exclaimed, "We're Done Making Excuses for Our Founder: We must reckon with Margaret Sanger's association with white supremacist groups and eugenics."

McGill Johnson details concerns many pro-life advocates have raised over the years (concerns that a number of media outlets have wrongly "debunked" as false over the years!) that Margaret Sanger, the founder of Planned Parenthood, harbored racist and eugenic motives for some of her work promoting use of contraception and abortion.

"Sanger spoke to the women's auxiliary of the Ku Klux Klan at a rally in New Jersey to generate support for birth control," McGill Johnson notes in the *New York Times*. And "she endorsed the Supreme Court's 1927 decision in *Buck v. Bell*, which allowed states to sterilize people deemed 'unfit' without their consent and sometimes without their knowledge—a ruling that led to the sterilization of tens of thousands of people in the 20th century."

She goes on: "The first human trials of the birth control pill . . . were conducted with her backing in Puerto Rico, where as many as 1,500 women were not told that the drug was experimental or that they might experience dangerous side effects." Again, this is a true and damning history that is all but ignored in birth control advocacy (even as many today still are not adequately informed of birth control's dangerous side effects).

Many anti-abortion and contraceptive-critical groups have been vocal about these damaging facts for years. It's stunning to see Planned Parenthood finally admit to its founder's feet of clay on a large platform, even if in the same breath the organization attempts to move on from it.

"In the name of political expedience, [Sanger] chose to engage white supremacists to further her cause. In doing that, she devalued and dehumanized people of color. . . . But we can't simply call her racist, scrub her from our history, and move on," McGill Johnson writes. "We must examine how we have perpetuated her harms over the last century—as an organization, an institution, and as individuals."

This would be a worthy effort, but I don't think abortion providers like Planned Parenthood are remotely capable of detaching the organization's services from eugenics.

Planned Parenthood is not the only abortion- and contraceptive-providing giant attempting to distance itself from its founder's eugenic motives. In November 2020, Marie Stopes International changed its name to MSI Reproductive Choices to downplay its association with its controversial founder Marie Stopes. The "MSI" in MSI Reproductive Choices clearly references the organization's original name *Marie Stopes International*, so its nominal separation from its founder is thin, but nevertheless it is seeking approval for the effort. The BBC reported at the time, "Stopes was a member of the Eugenics Society and advocated for the sterilisation of people considered unfit for parenthood." The BBC goes on: "She also corresponded with Adolf Hitler and believed in the creation of a super race."

Similar to McGill-Johnson's effort in the *New York Times*, MSI Reproductive Choices attempted to give context for Stopes' eugenic thinking while also decrying it. Eugenic views, "though not uncommon at that time, are now rightly discredited," the BBC quotes a statement from MSI Reproductive Choices.

While Planned Parenthood and MSI Reproductive Choices are attempting to distance themselves from eugenics just by saying so, there are many reasons to believe their words are hollow.

When the Services You Provide Inherently Discriminate among Which Lives Are Worth Living

Critics have long noted that Planned Parenthood locates nearly 80 percent of its surgical abortion facilities in walking distance of minority neighborhoods. In citing this statistic, proliferators have suggested that Planned Parenthood's motivations are racist, while abortion advocates prefer to think Planned Parenthood is serving the underserved. But when the main service you're providing is stopping a client from reproducing, it is hard to ignore racist and eugenic implications.

Black preborn babies were the most likely of all races to be aborted in 2018, according to the Centers for Disease Control and Prevention. And, in New York City, where Planned Parenthood is headquartered, *Black children are more likely to be aborted than born alive*.

Further, overseas contraception and abortion providers like Planned Parenthood and MSI Reproductive Choices continue to do work that parallels their founders' unethical histories. As Nigerian biomedical scientist Obianuju Ekeocha recounts in her informative book *Target Africa*, Western "reproductive rights" groups continue aggressive campaigns to sterilize African women and inject into them contraceptives to this day—even while African women continue to report in surveys that they value their fertility and children. Ekeocha

concludes that underlying such efforts is an outlook of cultural imperialism. As she compellingly explains in her book, Africa's woes do not stem from a population problem but from poor access to basic needs. Instead of helping to improve access to clean water or medical care, Western philanthropic groups prioritize family-planning efforts, and Western governments tie pivotal aid to aggressive contraceptive campaigns.

What contraceptive campaigns look like in reality, Ekeocha explains, is "mobile clinics" driving into poor African towns and administering contraceptive shots, devices, or implants to women who are uninformed about the risks and side effects, and who have little access to healthcare when complications arise. Sound familiar to Sanger's uninformed patient sterilization campaign, or the Puerto Rico trials?

What Real Anti-Eugenic Abortion Reform Would Look Like

If groups like Planned Parenthood or MSI Reproductive Choices really wanted to remove eugenic thinking from their operations, they would support laws banning eugenic abortion. But of course that's not on the docket. In fact, when it comes to Ohio's law against eugenic abortion in the case of Down syndrome, Planned Parenthood was among the plaintiffs bringing the case to court—in particular Planned Parenthood Southwest Ohio Region and Planned Parenthood of Greater Ohio.

In court documents, the plaintiffs stated that criminalizing abortions sought because of a Down syndrome diagnosis would disrupt women's access to unencumbered abortion, leading pregnant women to hide their reasons for seeking abortion, resort to doctor-shopping, and so on. Nowhere did the Planned Parenthood plaintiffs express concern about the possibility of eugenic motives affecting the decision to get an abortion; all that matters, apparently, is making sure the procedure can take place.

While Planned Parenthood likes to present itself as a medical organization, court documents reveal that it showed zero interest in stopping eugenic, anti-Down syndrome thinking from infecting the medical field at large. People will abort these children anyway, their argument goes, and making it harder to do so will just hurt abortion access, so let's scrap these laws and stop worrying about eugenic motives altogether. It's a policy that has worked for Planned Parenthood since Sanger's founding; it just doesn't seem to match McGill-Johnson's stated commitment to "examine how we have perpetuated her harms over the last century—as an organization, an institution, and as individuals."

Ultimately, the Ohio court ruled against the plaintiffs and Planned Parenthood, stating in its opinion: "when unborn children exhibiting a certain trait are targeted for abortion, that sends a message to people living with that trait that they are not as valuable as others," and "by involving the doctor in her personal

decision to abort her pregnancy because the forthcoming child would be born with Down syndrome, the woman places the doctor in a position of conflicted medical, legal, and ethical duties.”

I can understand if some doctors already feel this conflict; it certainly infected my 20-week ultrasound experience. Perhaps the OB-GYN who lingered too long on the suggestion of abortion was conflicted between serving both patients in the room and avoiding “wrongful birth” lawsuits. But it made for a disturbing patient experience—not only because her concerns created an “us versus them” vibe between the extra-uterine humans in the room and the preborn human she viewed as potentially “unfit to be born” and disposable. It also made for a disturbing experience because the doctor’s apparent conflict in care interfered with her listening to me as a patient. My clearly expressed health goal was to continue with this pregnancy and take care of the child no matter her health conditions; however, the OB-GYN in the room seemed to be stuck in a loop of “is-or-isn’t-this-child-defective” thinking that distracted her from hearing me. In a way, her divided attention disabled her from serving both patients in front of her.

It all comes down to logic. Eugenics has no place in medicine, and abortion providers cannot detach themselves from eugenic implications. As a result, abortion providers will never enjoy a secure place in the medical field, despite their claims and efforts. If eugenics and racism have no place in a fair society, one wonders when we will notice the emptiness of abortion providers’ claims that they’ve eschewed their founders’ problematic principles.

How Paul Weyrich Shaped the GOP Agenda, Part II

Connie Marshner

Elitists with a superiority complex: That might have been a shorthand (albeit simplistic and uncharitable) description of the Republican Party at the beginning of the 1970s. Today the description of the GOP is very different, and so is the political climate. A lot of the difference can ultimately be attributed to a man named Paul Weyrich, who deserves much of the credit for grafting the pro-life issue onto the Republican—and, thus, the national—agenda.

Some people blame Republican conservatives for “inventing” the pro-life issue to win votes. The truth is the opposite: The Republican Party was dragged kicking and screaming to a pro-life position in a complicated, multi-step, multi-year process that involved struggle with the Republican establishment, with conservative leaders, and, at times, with pro-life leaders. Herewith some highlights of how this transformation was accomplished. Much of the late-twentieth-century conservative movement came into existence in the course of it.

Who Was Paul Weyrich?

Paul Weyrich was a radio news director in Denver when Colorado legalized abortion in 1967, and he was appalled. Three years later, he was a recently-hired press secretary for Senator Gordon Allott (R-CO) when Congress enacted a billion-dollar birth control and population research authorization (known as Title X) without a single word of debate in the U.S. Senate,¹ and he was horrified—horrified at what was being done, and equally horrified that nobody tried to stop it. He knew the joke circulating among Republican staffers on the Hill: The aide asks the member, “What do you want to do about the abortion bill?” “Pay it!” comes the response. Republicans in the Rockefeller-controlled wing of the GOP were no friends of life (see part one of this article in the Summer 2021 issue of HLR).

About the only segment of the politically active population that objected to *Roe* were Catholics—and most Catholics were blue-collar Democrats. Remember the leftwing origins of the pro-life movement²: As legalizing abortion was first becoming an issue in different states before *Roe*, Archbishop McHugh of the Catholic bishops’ Family Life Bureau was doing some important organizing. Minnesota Citizens Concerned for Life, for instance, was founded in 1968.

Connie Marshner is an occasional blogger for the *Human Life Review* website. She recently completed a full-length biography of Paul Weyrich. This is part two of a two-part article.

Thus, pro-life leadership often came from those who had previously worked in the social justice campaigns of the 1960s, or who had roots in the Democratic Party and/or labor movements—issues where Republicans were mostly ranged on the opposite side. A 1972 abortion referendum in Michigan, for instance, was defeated with 61 percent of the vote by working across party affiliation. The leader of that effort, Marlene Elwell, who later helped organize Pat Robertson’s Christian Coalition, had marched with Martin Luther King and Cesar Chavez. In New York, where Republican population controller Nelson Rockefeller was governor, pro-life energy had been channeled into a third party: The Right to Life Party was created in 1970.

Weyrich belonged to the wrong party, and worse, he was a conservative—thus not to be trusted on two counts. But he was on Capitol Hill, and he was already known in conservative Catholic journalism. Furthermore, he was not shy about speaking his mind and seeking out people who needed to hear his thoughts. So Weyrich quickly became the “go to” guy on Capitol Hill for pro-life activists until dedicated pro-life organizations came into existence.

“The Inside/Outside Operation”

On Capitol Hill, Paul saw the fruit of effective lobbying campaigns on different issues, and he wondered: How did all the activity actually get orchestrated? In 1968, as he later told journalist David Broder, Divine Providence gave him an “ah-ha” moment:

Senator Allott had a reputation for being a liberal on civil-rights issues, and in 1968 he was invited to attend a strategy session on open-housing legislation. He couldn’t go, and I asked him if I could attend in his place. . . . And there, before my very eyes, was the coordination mechanism of the opposition . . . I would see these battles come up in the Senate and I would see the orchestration of them, but until that meeting I never understood the mechanics.

They had the aides to all the senators there, and they had the authority to commit their bosses to specific strategies. They had the representatives of foundations, which could supply data on this or that. They had a legal group. They had the outside lobbying groups, and they could say, “We need some pressure when we get down the line, and if they come up with this amendment, we want the whole country alerted.” And they had a couple columnists who said, “I can write something, just give me the timing on it.”

It was one of the best meetings I ever attended, and it gave me a tremendous insight into how the opposition operated. I was determined from that moment on that if I had any reason to be here at all, it was to duplicate that effort on the Right.³

There was nothing on his side of the aisle that could begin to compare to the network that Weyrich witnessed in that meeting. In 1968 “Conservatism” as such barely existed, and certainly was not winning in Congress; those on the Hill who considered themselves conservatives (often by virtue of college membership in the Intercollegiate Studies Institute, or a subscription to *National*

Review or *Human Events*) barely even knew one another. Republicans/conservatives had been on the losing side of almost every Hill and public opinion battle since the decline and fall of Joe McCarthy. Thus, they did not know how to win; they did not work in sync with each other; they had no means of giving a distant early warning to the public; and they did not have institutions or structures in place that would enable them to choreograph anything. Weyrich set about imitating the leftwing model he had observed (which already had all that and more in place) and creating the institutions and networks to make winning possible.

He called it the “inside/outside operation,” and it had four main components:

- 1) *The Inside/Inside*: a network of high-level Capitol Hill staffers on the inside of Congress who communicated accurate, timely advance warning about what legislation was moving ahead, what hearings were being planned, when votes were being scheduled, and which members of Congress were leaning in which direction and why.
- 2) *The Inside/Outside*: a team of intellectuals and writers ready and able to react quickly to the information from the Inside: to produce reliable research critiquing proposals or proposing alternatives, find expert witnesses to testify at hearings, and get all this information and these ideas into the hands of the media and onto the desks of members of Congress at the right time.
- 3) *Elections*: A majority of members of Congress who would vote right—preferably out of principle, but at least out of the fear of adverse consequences to their re-election. But first, people like that had to be elected, and the adverse consequences had to be real.
- 4) *The Real Outside*: A grassroots organization that could make senators and congressmen afraid to vote wrong because it had the power to deliver thousands of volunteers and activists who knew how to work in campaigns, organize demonstrations, make phone calls—and, in those days, send letters to Congress on short notice.

The “Inside/Inside” took the form of the Republican Study Committee in the House of Representatives and the Senate Steering Committee in the other chamber. The Heritage Foundation was founded as the outside, think-tank part of the operation. The Committee for the Survival of a Free Congress taught conservatives how to win elections and proved it could be done. Weyrich helped set up numerous grassroots organizations, and he was the *éminence grise* of many because he could pick up the phone and talk to the chief—or give him or her a tongue-lashing, if he thought it warranted. The strength of his personality was the source of his power—that and his absolute, uncompromising adherence to unchanging moral principles and strict business practices.

The Inside/Inside: Republican Study Committee and Senate Steering Committee

Today, conservatives on Capitol Hill meet regularly, plan strategy, share staff, take initiatives, and fight offensive or defensive battles working together. But before Weyrich, it was not thus. In 1970, he organized the Conservative Luncheon Club so that conservative staff members could get acquainted with each other. A list preserved in his 1970 Scrapbook names 13 men as “Founders and Officers” from both Democratic and Republican offices. (There were still 30 to 40 Democrats in the House who would often vote with Republicans.) A sign of the times: A secretary would bring in sandwiches and soft drinks to the lunches at a cost of \$3.25 per person.

Knowing other conservative staff didn’t create more time, however. In 1959 left-leaning Dems had organized the Democratic Study Group (DSG) to work smarter: Members contributed a piece of their staff budget to the DSG, which had its own staff of thirty who could be deployed as needed. Conservatives had nothing like this until 1973, when Weyrich and his friends were able to launch the conservative shared-staff arrangement called the Republican Study Committee (RSC).⁴ Two years later, Paul helped midwife a similar shared-staff arrangement in the Senate. This was the Senate Steering Committee; its founding senators insisted that conservative Democratic Senators Jim Allen (AL) and Harry Byrd (VA) be included. Until almost the end of Weyrich’s life, if he were in town, he never missed a meeting of the Steering Committee: He was the only non-U.S. senator to attend the meetings, other than senators’ staff.

The Inside/Outside: The Heritage Foundation

The Left’s outside think tank, The Brookings Institution, had been around since 1916. It essentially ran JFK’s famous Hundred Days.⁵ The American Enterprise Institute, founded as a pro-business think tank in 1938, had opposed FDR’s New Deal and suffered bureaucratic persecution for its support of Richard Nixon. Its president told Paul that he made sure AEI’s research papers on controversial subjects arrived on Congressional desks *after* the vote had been held, lest AEI run afoul of the IRS. Besides, AEI was in downtown D.C., a cab ride away from the Capitol, and Weyrich wanted his think tank to be in walking distance of where the action was.

He watched other Outside organizations help the Inside by doing research, gathering allies, supplying witnesses for hearings, sending experts to privately brief senators, and doing the myriad of other things that go into making a political issue rise to the top. The problem was how to fund such an Outside organization. In 1970, Divine Providence again intervened—this time through an intra-office error. The secretary who usually handled the mail in Senator Allott’s office was out one day; her substitute opened a letter that began “Dear Senator

Allott, You may remember me. I was news Director at KBTR in Denver . . .” The substitute saw the radio station reference and put the letter in the press secretary’s (Weyrich’s) in-box. But the letter-writer went on to say: “I have been hired by Joe Coors to help him determine where he should put his money so it can further the conservative cause . . .” Had the regular secretary been in that day, Weyrich would probably never have seen that letter, which was signed by Jack Wilson, Joe Coors’ philanthropy officer.⁶

The mis-routed letter sparked a relationship that changed the course of political history. Helping bring to birth The Heritage Foundation was the beginning of Coors’ lifelong generous philanthropic support of numerous conservative think tanks and public policy foundations—many of them first conceived in the mind of Paul Weyrich, and carried forward by his close associates. Heritage was the pioneer: It proved that respectable conservative research could be conducted and used effectively, and that donors would be willing to fund it.

After *Roe v. Wade* was handed down, the Northeastern libertarians on the Heritage board of directors would not allow Weyrich to touch the abortion issue. Weyrich was the founding genius, but he had to depend for implementation and funding on others who liked the idea of an Inside-Outside operation for different reasons, or to advance different agendas. So he left Heritage and went to work where he could make a direct difference for pro-life initiatives.

The Third Piece: Winning Elections

As Weyrich saw it, the best chance to pass a Human Life Amendment was for the Republican Party to take up the issue and become the majority in Congress. But first a majority of pro-life Republicans needed to be elected to Congress, and they needed to be running the party leadership. Conservatism was on the rise within the Republican Party, and Weyrich knew how to win elections. It was only a matter of combining the two elements . . . easier said than done.

Putting the election piece of the Operation into place required many steps and multiple election cycles. First, Weyrich had to prove that being pro-life would not doom a candidate to defeat—which was (and frequently still is) the default position held by the political establishment. To prove that, he had to raise money, train candidates, help them win, and repeat the process over and over again.

A conservative movement had begun to emerge in the GOP in the wake of the Goldwater campaign of 1964, but it was mostly silent on moral issues. It was led by well-bred, well-educated, generally young (mostly) men, many of them from the Northeast. They were primarily motivated by anti-Communism and free-market economics—and for the most part innocent of theories of objective morality (an unfortunate educational gap, as the Sexual Revolution was raging). This movement had a flagship magazine, *National Review*; a Capitol Hill newspaper, *Human Events*; and campus presence via the Intercollegiate Studies

Institute and Young Americans for Freedom—but little popular outreach. True, there were some Catholics involved in the conservative resurgence, but conversations generally followed the rule of politeness and avoided religion—and abortion, after all, was perceived as just a “Catholic issue.”

Weyrich was not an intellectual; he often described himself as a “political mechanic.” He had grown up in the blue-collar town of Racine, Wisconsin, married before he was 21, and dropped out of the fledgling UW-Racine campus after being disgusted with the ideological slant of a teacher. Most of his relatives were Democrats and union members, and from childhood he had watched the machine identify and turn out voters to win elections. He arrived in Washington knowing something country-club Republicans did not: how to organize voters to win elections. In 1968, 1970, and 1972, he tested and applied his knowledge on a small scale by volunteering with the Committee of Nine, a zero-profile group of conservative senators and donors who offered some help to candidates. He observed a huge disconnect between conservative principles and campaign skills.

At this point in history, the human life issue could have been the Democratic Party’s for the taking, as the story of Nellie Gray so well documents. Nellie was a liberal Democratic federal lawyer who had been active in the Civil Rights movement. She was sure that her heroes (like Ted Kennedy) would recognize the Court’s mistake in deciding *Roe* and would immediately move to amend the Constitution so that human rights were protected. The Democrats had ready reserves of journalists and minorities and church leaders who would have been happy to blast Republicans for being racists and eugenicists once Democratic leaders explained what *Roe* and *Doe* actually did, and gave the signal to act. But the signal never came. Nellie was astonished that her Democratic heroes would not even give her the time of day. She could hardly believe it when the only senator who would take up the issue was James Buckley—a Republican and a conservative, no less. Nellie was shocked to find herself with Republican and conservative friends—and so were most of the people who came to the first March for Life in 1974.⁷ Nellie, who led the March for Life until her death in 2012, became a leader the same way most pro-life leaders did—because she saw a vacuum and she moved to fill it.

When the Democratic Party chose the other side, Weyrich moved to fill that vacuum.

In 1971, Weyrich developed his “Five and Thirty” concept: Five active, articulate leaders in Congress are worth more than thirty ordinary votes. When a candidate came on his radar, Weyrich would decide if he or she were one of the Five or one of the Thirty, and respond accordingly.

In 1972, he identified six candidates as the “Five”: Trent Lott had been a member of the Conservative Luncheon Club while he was an aide to Democratic

Congressman William Colmer (D-MS); now he was running for the U.S. Senate as a Republican. Running for House of Representatives as Republicans were Steve Symms of Idaho, Bob Huber of Michigan, John Conlan of Arizona, David Treen of Louisiana, and Harold Froehlich of Wisconsin. All were pro-life. Not only were all six elected, but another 25 conservative new members were as well.

The election of 1972 did not give Republicans a congressional majority, though it sent Richard Nixon to the White House in a landslide. Although “acid, amnesty, and abortion” was not George McGovern’s actual campaign slogan, after Senator Thomas Eagleton (D-MO) let the phrase drop in an interview with the *Evans and Novak Report*, it might as well have been, because that’s what the public remembered about George McGovern. McGovern’s campaign manager (and later NPR president) Frank Mankiewicz blamed that loose-lips comment for McGovern’s defeat. Real America, Nixon’s “Silent Majority,” roundly disliked abortion—and did not want a president who approved it.⁸

Then came Watergate, the ignominious fall of Nixon, and the collapse of the Republican Party. That ushered in the age of the PACs (political action committees). The very first PAC had been created by Congress in 1943 so labor unions could give money directly to FDR; in 1948 Eleanor Roosevelt founded the National Committee for an Effective Congress (NCEC) to fund the progressive side of politics. The 1971 Federal Election Campaign Act was the brainchild of NCEC, and further post-Watergate election reforms allowed PACs to solicit the public for donations for the first time ever. So in 1974 Weyrich founded a conservative PAC, the Committee for the Survival of a Free Congress (CSFC), and set out to do on the Right what NCEC did on the Left. Over the next years, direct-mail entrepreneur Richard Viguerie mailed millions of letters across the country to raise funds and simultaneously educate the public. In doing so, he identified millions of Americans with conservative sympathies, who were willing to support not only CSFC, but dozens of other new conservative organizations.

CSFC would be different from anything that the political world had seen before. First: It published *The Conservative Register*, a book-length scorecard of the entire Congress—more than 800 record votes on a wide range of topics—which was mailed out to millions of Americans. Today, it is hard to imagine campaign politics without voter scorecards, but Paul Weyrich created the first one on the Right. After a few years CSFC stopped this, as plenty of other groups had picked up the technique.

Second: He would not help incumbents, because he was looking only for new blood who were motivated by principle and who had leadership potential. He figured a member of Congress ought to be smart enough to use the perks of office to get re-elected. “I don’t waste time with losers,” was one of his slogans.

Third: He would take a side in a primary election, supporting the pro-life

candidate even against a GOP favorite if he thought the pro-life candidate was sincerely pro-life and could win. This did not endear him to the Republican establishment, but his goal was to elect a Congress that put commitment to principle before commitment to political party.

Fourth: He trained conservatives on how to win so they could get themselves elected and then re-elected and thus achieve seniority in Congress. Toward that end, he required candidates and their key staff to attend intensive five-day workshops to learn the Kasten Plan. This system of campaign strategy and tactics is named after Wisconsin state senator (and later U.S. Senator) Bob Kasten, who first utilized the Plan, which had been worked out by Fritz Rensch, a Racine businessman and friend of Weyrich's since high school. The system covered all aspects of campaign technology, including the innovative use of hard voter data, and focused on "shoe-leather politics": lots of direct contact between the candidate and the public, lots of door-knocking, lots of training and deployment of volunteers. CSFC's field team constantly travelled around the country to monitor campaigns and offer help, and if a campaign did not follow the Plan, aid would be cut off. Part of the Kasten Plan was aggressive involvement of philosophical coalition partners, including pro-life and pro-gun constituencies: Nobody else was doing this at the time.

Fifth: Weyrich believed that elections could be won by making a clear contrast with one's opponent—and abortion was an issue where a clear contrast could be made easily. When the contrast was drawn clearly, and the message reached the right audience through the candidate's coalition strategy, the pro-life issue could provide a 2 to 3 percent margin of the vote—enough to make the difference between loss and victory.

Not surprisingly, CSFC had little impact in its first year. By mid-1975, Weyrich had travelled to a dozen states, identified 100 actual or potential candidates in 20 states, personally met with 35 of them, and targeted 25 districts. The 1976 results were better: CSFC supported four of the senators who won election, and 30 of the 80 House candidates who ran, most of them unsuccessfully because the Democratic "Watergate babies" elected in 1974, the year of Nixon's resignation, had figured out how to survive. Out of 78 up for re-election, 75 made it, a re-election rate of 94 percent.

As the 1970s turned into the 1980s, and conservative organizations began to appear like mushrooms after a rain, the media became aware of Weyrich, Viguerie, and Howard Phillips (founder of the Conservative Caucus), labeling them the "New Right." Weyrich and friends happily accepted the moniker, because they were all from blue-collar backgrounds and proud of it, and they wanted to be differentiated from the Eastern Establishment/big money/Old Right.

In 1976 the Governor of California was running for the GOP presidential nomination, and Weyrich worked to make sure that pro-life was part of the Reagan

agenda—by no means a foregone conclusion. Ronald Reagan had, after all, signed the abortion legalization bill in California, and the strongest influence on him, Nancy Reagan, was actively hostile to pro-life. “I don’t give a damn about the right-to-lifers,” Nancy retorted as she edited pro-life language out of her husband’s State of the Union speech one year.⁹ Her hostility was kept largely under wraps until 1994, when in a speech at George Washington University she proclaimed that “I believe in a woman’s choice” right after saying that she personally opposed abortion.¹⁰ At least during her husband’s time in office, she was not as outspoken as former First Lady Betty Ford was in 1975, when she said: “. . . it was the best thing in the world when the Supreme Court voted to legalize abortion, and in my words, bring it out of the backwoods and put it in the hospital where it belonged. I thought it was a great, great decision.”¹¹

Weyrich officially laid down the gauntlet when he testified before the Republican Platform Committee in Kansas City in August 1976:

Conservatism means, first that the Federal government should be strong in those areas where it has a legitimate function, and second, that it should remain out of many areas of the national life where it has no business being. . . . The right to life is the most fundamental of human rights. If the Republican Party fails to take a stand on this issue, it will reveal its basic corruption. . . . From [*Roe v. Wade*] . . . there is no logical stopping point: if one accepts that decision, there is no logical reason to object to euthanasia . . . or even to extermination camps for those who are politically inconvenient.

In conclusion, Paul issued a warning: “If we can work with the Republican Party, we shall be happy to; but if the conservative political cause can only be advanced in other ways, then we shall follow those other ways.” The Republican establishment was well aware that CSFC took sides in Republican primaries and targeted liberal Republican incumbents. For people who put party first and conservatism second, this reminded them how much they did not like Weyrich, even as it validated his own statements that his goal was a conservative pro-life Congress, not a Republican one. The response of the party reminded Weyrich how much he distrusted Republicans.

Before Election Day that year, Weyrich declared that a Carter victory would be a blessing in disguise for conservatives, because it would kill the Republican Party as a viable political institution and foster a new conservative party. *National Review* publisher William Rusher chorused his agreement, further demonstrating how vast the gap was between the rising New Right and the old Republican establishment. After Reagan withdrew from the 1976 race and Jimmy Carter became president, the idea of a third party faded, however, and by 1977 Weyrich was meeting regularly with Congressman Phil Crane (R-IL) to encourage him to run for president to the right of Ronald Reagan. Crane’s campaign imploded because his consultant Art Finkelstein would not allow him to engage on social issues¹²—the very issues that Weyrich knew would be the

key to victory.¹³

CSFC's road to victory tapped into the emerging base of passionate single-issue voters such as pro-life, anti-ERA, anti-pornography, gun rights, prayer in school, and right-to-work. In 1978 CSFC won real bragging rights: It was the first year the Christian Right organized nationally at the grassroots level. Campaign genius Marc Nuttle was fieldman for both CSFC and the Republican National Committee that year:

Christians began to appear at the campaign headquarters of congressional campaigns unannounced all over the country. Candidates asked [Eddie] Mahe [RNC Political Director] who they were and what did they want. Paul and Eddie sent me in to investigate. Come to find out they were Christians who were reading Tim LaHaye's newsletter. Tim believed that Christian values and a moral way of life were being lost in the culture wars.

Nuttle recalls:

. . . we designed a training program just for Christians. List development, organizing churches, ID and turnout, and leafleting windshields were a few of many tactics prioritized. . . . CSFC managed the training schools and the messaging. The RNC backed us up with the candidates to take the movement seriously.¹⁴

That year Republicans had to defend 17 out of 38 U.S. Senate seats. When the election was over, there were 41 Republicans in the Senate. In the understated words of the *Congressional Quarterly*: "The Senate that begins work in 1979, influenced by the second largest freshman class in the history of popular elections, will have a slightly more conservative cast and a few more Republicans than its predecessor."¹⁵

Roger Jepsen's campaign was Exhibit A of the viability of the Kasten Plan. Jepsen had been the underdog in his Senate race in Iowa, considered a long shot by the Republican establishment. None of the polls ever showed him in the lead. But Jepsen won in the Democratic precincts, as CSFC had taught was possible, with a "power to the people," shoe-leather campaign—and it worked for Jepsen because he made abortion an issue in the Catholic Democratic precincts. Jepsen defeated incumbent Senator Dick Clark, who had been the Number One Enemy of the National Right to Life Committee. "It comes right down to those leaflets they put out," Bob Miller, Clark's campaign manager, told the *New York Times* after the election.¹⁶ "Those leaflets" were about 300,000 pamphlets distributed in church parking lots throughout the state on the Sunday before the election. The tactic of "those leaflets" was an essential tool for pro-life activists for years to come.

The 1978 election also saw fifteen House of Representatives seats switch from Democratic to Republican, among them CSFC protégés Ron Paul (TX-22); Dick Cheney (WY-at large); Jim Sensenbrenner (WI-9); and Newt Gingrich (GA-6), winning on his third attempt. All were future significant national

leaders. By 1980 the Kasten Plan was being followed by most conservative candidates.

Weyrich's Fourth Ingredient, a grassroots movement, was longer in coming, and never operated to his satisfaction. Despite the late start, in 1980, the Religious Right delivered three million newly registered evangelical votes for Ronald Reagan, allowing Reagan to win the highest number of electoral votes ever won by a non-incumbent (489 to Jimmy Carter's 49). Republicans gained control of the U.S. Senate for the first time in 28 years, picking up 12 seats and losing none, and the GOP picked up 34 seats in the House of Representatives, leaving the Democrats with a scant 243-193 majority.

What was Weyrich's role in the Religious Right? He was the inspiration behind its leaders. In 1978 the Free Congress Foundation had commissioned a study by V. Lance Tarrance, Jr., which found that the more often people attended church, the less likely they were to be registered to vote. This indicated that the people with the strongest moral convictions had dropped out of the political process. Who are the people who go to church more than once a week? Evangelicals and fundamentalists. When Weyrich met with Jerry Falwell, an ambitious Independent Baptist pastor in Lynchburg, Virginia, on May 18, 1979, he shared these findings. Falwell was already toying with the idea of launching an activist organization. In that meeting Paul said, "You know, Jerry, there's a moral majority out there in the heartland . . ." and Falwell stopped him mid-sentence: "Say that again!" Paul repeated the beginning of his intended sentence and Falwell again interrupted him to exclaim: "That's it! That's the name of the organization!"

From its founding in 1979 until it folded in 1989, Moral Majority was not just the name of an organization but a shorthand phrase often used to mean "newly-activated Christians involved in conservative politics." Religious Right was another term applied to the phenomenon. During its lifetime, Moral Majority was not by any means under Weyrich's control, though he sometimes got blamed for its mistakes. A corresponding Catholic grassroots organization did not get going until the next century.¹⁷

It is interesting that Weyrich, a Melkite Greek Catholic, was able to work with evangelical and fundamentalist Protestants, many of whom had grown up being taught that the Catholic Church was the Antichrist. Weyrich was a frequent guest on CBN and other Christian radio and television networks, and he never hid his Catholicism. Perhaps the fact that he was a Greek Catholic and not a "Roman Catholic" made it easier for him to be accepted—Melkites are in union with Rome, but such fine points of ecclesiology are hard for even Catholics to grasp. In any case, the fact that Protestant leaders were meeting with, and publicly praying with, Catholics gave permission for pro-life activists at the grassroots level to do the same. Many old prejudices were erased in the pursuit of a pro-life Congress, helping to create the functional ecumenism that is a source

of pro-life strength today. The continued commitment of evangelicals and fundamentalists to life issues and their involvement in politics as candidates and as volunteers helps to ensure the continued faithfulness of the Republican Platform to the pro-life agenda.

CSFC no longer exists, but shoe-leather politics has become conventional wisdom (though more consultants talk about it than know how to do it Weyrich's way). By 1980, Weyrich had compelled the political world to take the abortion issue seriously. The Democratic Party chose its side, and did all it could to make it easy for the pro-life Christians to move into the Republican column. As the years passed, Paul Weyrich was proven correct: Time and time again, year after year, pro-life could make the margin of difference in an election. No matter how a district polls in its general sentiment of pro-choice or pro-life, if the candidate and the troops on the ground do their job right, the intensity factor in favor of pro-life will turn out a 2 or 3 percent margin in favor of the pro-life candidate. Congressman Chris Smith (R-NJ-4) proves the truth of this to this very day: His district polls majority pro-choice, but Smith has been the leader of the pro-life issue in Congress for a long time. Smith was first elected in 1980 and is now serving his 21st term, thanks to his assiduous application of Paul Weyrich's Kasten Plan principles.

NOTES

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Who Has the Loneliest Hearts in the Cosmos?

Jason Morgan

Dennis Overbye's 1991 book *Lonely Hearts of the Cosmos* is a story of solitary cosmologists staring through big telescopes into the night sky.¹ In an essay praising Overbye's work, physicist and popular science writer David Kaiser writes that cosmologists had lonely hearts for two reasons: They were genuinely lonesome, "sit[ting] up all night, alone, under unheated domes, squinting through huge telescopes to catch the faintest glimpses of light from faraway galaxies."² And they were intellectually isolated, as well, unable to approach their physicist peers' equations in accuracy or to formulate a grand theory of the cosmos—which, as cosmologists, meant they were like generals without an army, dogwalkers without any dogs. Socially unengaged and scientifically adrift, cosmologists were lonely hearts, pursuing a seemingly fruitless line of research.

But then, Kaiser notes, things "began to change, and to change fast, soon after Overbye's *Lonely Hearts* appeared."³ Data were streaming in from the Cosmic Background Explorer (COBE) satellite, from the repaired Hubble Space Telescope, from the Wilkinson Microwave Anisotropy Probe (WMAP), from the European Space Agency's Planck satellite, and other new initiatives designed to tap the black night for clues to the makeup of physical reality.⁴ Theorists jammed to these new data riffs, coming up with big ideas about what our world is and who we are inside it.

Even before this data torrent from the stars, scientists had been trying to unravel the heavens' secrets. Roger Penrose and Stephen Hawking famously debated black holes and what they mean for the universe. Later, astrophysicist Neil deGrasse Tyson, carrying on the legacy of personable science popularizer Carl Sagan, described his emotional, spiritual connection to the mysteries of the universe.⁵ Personal investment in the workings of the physical world has skyrocketed over the past few decades. In particular, the starry firmament seems—now, more than ever—the almost-got-it key to understanding human life.

Many of the scientists who stare into telescopes or at readout screens during cosmic listening sessions have been atheists, or at best agnostics. Really, who can blame them? If one begins as a physicist, one is already committed to seeing the physical in physical terms. It is like standing before a vast library of LP records and declaring that because one does not own a record player, therefore there is

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no music. If one goes in with a certain set of assumptions, then how surprising is it when those assumptions yield their assumed results?

And yet, while many lonely hearts of the cosmos—cosmologists, physicists, astronomers, mathematicians, and other researchers of the non-astral plane—may have been unimpressed (or unconvinced) by the idea of God, they could not stop looking into the sky for answers, and then trying to connect what they found up there to the way things are in our little world. Stephen Hawking, for example, maintained a kind of Augustinian anthropocentrism until late in his career. Hawking was not willing to make the final epistemological split between the fact that human beings are here looking up at the universe, and the fact that the universe is up there to be looked at in the first place.⁶ In other words, Hawking could not, at least in his early career, divorce his mind from the universe's material array, could not believe that there could be no connection between his ability to wonder about the stars and the fact that the stars could be objects of human wonder. In *A Brief History of Time*, Hawking appeals to the “weak anthropic principle” to help explain why other modes of cosmic engineering—namely, a universe essentially “running backwards” and contracting instead of expanding—“would not be suitable for the existence of intelligent beings who could ask the question: why is disorder increasing in the same direction of time as that in which the universe is expanding?”⁷ To spin Hawking's argument a bit, we lonely hearts peer skyward because the universe presents itself to just such lonely hearts as we.

Lonely hearts abound among the scientific set, it seems. On St. Valentine's Day, 1990, just a couple of years after Hawking released *A Brief History of Time*, Carl Sagan had the Voyager 1 spacecraft, by that point four billion miles from home, turn around and take a picture of Earth, where live all the known lonely hearts in all the sprawling cosmos. Voyager 1 was supposed to go looking for alien worlds—so far, the only life it has discovered is us. The Valentine's Day snapshot of our planet, known as “Pale Blue Dot,” stands as a perfect metaphor for the often-contradictory roles of scientist and human being.⁸ Reason tells us that all we can see is all there is. Something deeper stirs us to keep looking all the same.

Are We Really Lonely *and* Alone?

Perhaps no one has a lonelier heart throbbing for companionship in the cosmos than those engaged in SETI research, such as the late Carl Sagan. SETI stands for Search for Extra Terrestrial Intelligence. SETI researchers don't just stare at the stars to knit together big theories about physics. They are hunting for a very different kind of prize: life. A brief SETI history at a NASA website explains that:

In the late twentieth century, scientists converged upon the basic idea of scanning the sky and “listening” for non-random patterns of electromagnetic emissions such as radio or television waves in order to detect another possible civilization somewhere else in the universe. In late 1959 and early 1960, the modern SETI era began when Frank Drake conducted the first such SETI search at approximately the same time that Giuseppe Cocconi and Philip Morrison published a key journal article suggesting this approach.⁹

Central to this search is the so-called Drake Equation, formulated by the above-mentioned Frank Drake to estimate how many planets in the universe might, theoretically, harbor alien civilizations. The Drake Equation gives scientists just enough mathematical and scientific cover to engage in what is, speaking strictly historically and empirically, almost certainly a quixotic endeavor. There are many news reports about aliens. There are many who claim to have seen little green men. So far, not a single sighting has ever been confirmed. But SETI scientists keep at it, in what is an almost-romantic quest for intelligent life blossoming elsewhere than on our own little pale blue dot.

No confirmations of Martians or Venusians yet, but that doesn’t mean there hasn’t been a lot of excitement for SETI all the same. Nineteen-seventy-seven was a banner year for the movement. On August 20 of that year, the Voyager 2 spacecraft was launched, carrying both a golden record with sound recordings of human voices and earth sounds as well as etchings depicting the location of Earth in the solar system. On September 5, 1977, Voyager 1 (confusingly launched after Voyager 2), bearing an identical golden record, was sent on its lonely peregrination into interstellar space. Mankind was getting serious about reaching out to non-earthlings.

Just five days before the Voyager 2 launch, the idea of sending probes into interstellar space in part to look for aliens suddenly didn’t seem so far-fetched after all. The Big Ear telescope owned by The Ohio State University had detected a radio signal emanating from Sagittarius that seemed to be non-natural in origin. It was just as Cocconi and Morrison had hypothesized: If we wanted to find alien worlds, we would have to find them on the radio.¹⁰ And, voilà! The signal detected by Big Ear seemed to resolve the Fermi Paradox. Physicist Enrico Fermi had famously asked, If the universe is as big as we think it is it should be virtually certain that we are not alone—but if so, then where is everybody? The 1977 signal was never repeated, but it was also never explained. The tingle down the spine never really went away—maybe, just maybe, there’s somebody else out there.

SETI and the Cold War

With the launch of the two Voyagers, the speculation in the press about possibly encoded radio bursts from deep space, Carl Sagan’s blockbuster book and TV series *Cosmos* in 1980, and, of course, the 1982 Steven Spielberg movie *E.T. the Extra-Terrestrial*, the world had come to hold a very different view of

what used to be beyond the fringes of respectable science. The “Weird Tales” science-fiction comics and campy low-budget films of the 1950s and ’60s, and the Roswell-themed conspiracy theories of government cover-ups of alien ship crash sites and secret research projects in the desert, had given way to a more nuanced, even welcoming, view of creatures from beyond the moon.¹¹ SETI became a serious sidebar for many researchers, and some even took it up as their full-time pursuit. “I look for aliens” went from being a conversation-ending admission by a wild-eyed kook at the local watering hole to something MIT grads were eager to put on their CVs.

But all was not the euphoria of pure discovery. Notes of real-world caution crept in, too, just as the drive to overturn the Fermi Paradox was gathering steam. The backdrop to the Voyager missions and to all the other American satellite and probe launches—the very reason the space program existed, in fact—was the Cold War. The schmaltzy moralizing of *E.T.* and the lovable-mad-scientist vibe to the nerdy scanning of the night sky for radio waves barely concealed the hate that seethed beneath the human quest for scientific mastery of the cosmos. It wasn’t just star travelers, little “sputniks,” that Cold War governments were putting on top of rockets. It was also thermonuclear weapons. These weren’t figments of anyone’s imagination—they were very real, and very much capable of wiping out life on our planet.

Annihilation by atomic apocalypse became a sub-theme of the anti-war Left during the Cold War. Any sane person, in fact, had to stop and think about what would really happen if some crazed warmonger “pushed the button.” General Buck Turgidson and Nazi holdover Dr. Strangelove wrangled over the use of “the bomb” in a classic 1964 Stanley Kubrick film, while nuclear winter was the theme of other cultural milestones from the era: Walter M. Miller’s 1959 book *A Canticle for Liebowitz*, Pat Frank’s novel *Alas, Babylon* from the same year, Nakazawa Keiji’s 1970s and ’80s manga series *Barefoot Gen*, and many, many more. Even the weird 1954 B-grade film *Godzilla* is a meditation on nuclear war. It didn’t take long for humanity living in the shadow of the Washington-Moscow showdown to get the message that scientific advances had helped hang a sword of Damocles over everyone’s head.

The stakes of civilizational standoff were thus higher during the Cold War than they had ever been in human history. In 1962, when Soviet premier Nikita Khrushchev and American president John F. Kennedy circled one another like prizefighters over Soviet missiles in Cuba, the world was brought within a heartbeat of nuclear war. Just one slight misunderstanding could have set the exchange of warheads in motion. In the 1980s, President Ronald Reagan reprised this brinksmanship, turning warhead parity into a budget-busting chess match that he bet—correctly, as it turned out—the Soviets would lose. But before they did, and even after, the proliferation of nuclear weapons sobered the world into

reconsidering the easy optimism of the earlier time of scientific heroes. Once, science had been touted as the savior of the human race. Now, it was alleged, we were increasingly likely to die of it. Atomic scientists started the so-called Doomsday Clock in 1947 to alert the rest of humanity to the consequences of what atomic scientists had unleashed.

A wave of pessimism overtook other scientific pursuits, too, and apocalyptic visions of end-times have been a staple of scientific writing for decades now. Hand-wringing over the “Anthropocene,” the epoch of human destruction of Mother Earth, is *de rigueur* in science departments these days. Even without human folly, scientists have begun to whisper, the universe may still find a way to end us. In 2019, a team of researchers from Oxford calculated that the human race may stand a one-in-870,000 chance of going extinct in any given year, and possibly as high as one in 14,000. Our planet, after all, has proven to be equal parts safe haven for life and apocalyptic graveyard. “Out of all species that have existed,” the Oxford team tells us, “over 99% are now extinct.”¹² Check, please.

No wonder the seeking hearts of the cosmos are so lonely. There seems to be little to comfort us either up in the universe or down here below. As the attention of rich nations turned to the heavens—heavens which scientists in both America and the Soviet Union seemed largely to agree were empty of any deities—the world under our feet and in front of our eyes unraveled.¹³ We sent reprisals of the old heavenly denizens—Mercuries, Apollos, Titans, Thors, Saturns, Geminis, and Artemises—into the sky, shot after shot. Even today, the out-of-this-world remains the world’s most exclusive destination, as billionaires boast of their private space programs and compete with one another to go higher and faster than anyone else. Self-funded rockets carry already-astronomical egos into orbit and someday, if the boasting holds, will ferry the godlike few among us even out to Mars, a New Eden for man’s despoiling. Down below, meanwhile, crime increases, families disintegrate, the psyche crumples. Out-of-wedlock births, drug use, the phenomenon of the “working poor,” human trafficking, and the endless churning of spite, bile, and vitriol in the cauldron of enmity misleadingly named “social media” comprise the all-too-real reality for star-crossed humanity. We glory in our knowledge, worship our technology—and have never hated one another so much.

The Missing Specter of Abortion

Fretting about nuclear winter or the possibility that a madman with a dirty bomb may take out a major city is not unfounded. Goodness knows, humanity has been trying to off itself by nuclear device for decades. The atomic weapons dropped on Hiroshima and Nagasaki in August of 1945 were slaughters by incineration, irradiation, and blast. But those two bombs were mere firecrackers compared with the mammoth explosions set off in the Bikini Atoll in the

late 1940s and into the 1950s. Technology and numerical proliferation have since intervened to guarantee the plot device of the 1983 Dabney Coleman and Matthew Broderick movie *WarGames*: mutual assured destruction (MAD). Mathematician John von Neumann coined the phrase, having come up with the idea when he tried calculating whether, according to game theory, nations would realize that the only rational approach to nuclear weapons is not to use them. A quick glance around the world at those who have control over nuclear stockpiles does not provide much reassurance that, in the end, reason is going to prevail.

Given the obvious dangers, scientists around the world have long advocated for the abolition of nuclear missiles and bombs. But the fact is that, after Hiroshima and Nagasaki, the world began a killing spree which the lonely hearts looking up into the star-dappled cosmos seem to have missed. While the scientists were worrying about MAD, some of their colleagues in white coats, the physicians, were busy doing the real work of species eradication.

For instance, the 1948 Eugenics Protection Law, pushed by American liberals and Japanese crypto-Marxists on a defeated population, opened the floodgates of abortion in Japan. For a time, Japan was the abortion capital of the world, as women flocked to clinics in Tokyo to undergo “procedures” to “terminate pregnancy.” In the United States, too, an underground movement, documented partly in *The Story of Jane*, was clearing out infants from inner cities.¹⁴ *Roe v. Wade* broke the dam in America, and abortion became a government-sanctioned plague after 1973. The liberal democracies of North America and Western Europe have taken to exporting abortion and the related anti-human ideologies of contraception and gender disorientation to nations and continents that suffer terribly under the ideologies imposed upon them. In her 2018 book *Target Africa*, Nigerian biomedical scientist Obianuju Ekeocha has detailed how the elites of the West now bring a new kind of colonialism to her home continent.¹⁵ Hiroshima and its chilling legacies have rightly occupied the minds of concerned scientists worldwide, but somehow the mass human extinction event known as abortion—not speculative, but ongoing even as we speak—has failed to register much of a response among this rational-minded group.

All of this makes the SETI initiative and the arms-control movement seem a bit out of touch. World population control was in full swing as the cosmologists and physicists—and political pundits—were running calculations about the likelihood of alien life on other planets or of nuclear war wiping out the human race. As the astrobiologists swung their telescopes across the starry arc, French oceanographer Jacques Cousteau was just one of countless socialists and globalists advocating for a mass culling of human beings.¹⁶ Margaret Sanger was hardly alone when she fantasized about yanking “human weeds” out of the genetic garden of homo sapiens—a policy that has arguably created more lonely

hearts in the cosmos than anything else in our universe's history.¹⁷

Entire governments have been involved in this attempt to depopulate the planet, even as scientists have been warning of thermonuclear holocaust and scanning the skies for coded signals from aliens. Ideas from the population control group Club of Rome filtered into the Chinese Communist Party, for example, which turned the nation of China into a Petri dish for conducting experiments against human fertility.¹⁸ Forced abortions, forced sterilizations, forced placement of IUDs, and forced use of other birth-control devices and substances—the wild imaginations of scientists and filmmakers pinching their brows over World War III overlooked the in-utero hecatombs being offered up daily and nightly around the planet. Lonely hearts of the cosmos—but how many lonely hearts in Chinese villages, hearts of women mourning the children who had been dismembered and taken from their wombs, placed in buckets, and set next to the devastated, bereaved mothers' beds as a grisly warning not to defy the dictates of the Communist Party?

The “Unidentified Abortion Phenomenon”

In recent years, speculation has heated up again that we may be getting messages, even visits, from alien civilizations. In June of 2021 the United States federal government released a report on what are now being called “unidentified aerial phenomena (UAP),” or, in 1950s parlance, flying saucers.¹⁹ The report had been hyped by certain people appearing on cable news and YouTube channels, insisting that the feds know more than they are letting on about the existence of UFOs. That report turned out to be something of a dud. No big revelations of aliens in our midst. It did get people thinking a little more seriously about “unidentified aerial phenomena,” though. So did the videos and reports over the past decade or so of seemingly credible encounters with flying devices of unknown origin and unexplainable technical prowess buzzing Navy pilots and commercial airliners. Whether fashionable (as now) or not, mankind continues to look up to the heavens and wonder if we are really alone.

Despite the popularity, there's a philosophical problem with SETI, I think. SETI potentially undermines the anthropic principle upon which it's founded. If we are not alone, then there may be no rationale left to describe why we, alone, seem capable of understanding the universe. More than we realize, the explanations that many scientists have offered for human existence are tautologies. We can observe the universe, which explains, somehow, both the universe's existence and our own. But what if we encounter alien worlds and find that they not only look different than we do, but think differently, too? SETI assumes that “intelligence” can be universalized. If “intelligence” is not universal, however, but plural—if other beings are found, but if we can't communicate with them (the way we can communicate, somehow, even with many animals on earth)—

then what will the “search for extra-terrestrial intelligence” have meant in the first place? If our human intelligence turns out to be, not translatable into cosmic terms, as Hawking argued by appealing to the weak anthropic principle, but rather a prison trapping us in a very narrow and provincial, Earth-bound mode of thought, then we will likely rue the day we ever met a Martian. Human intelligence may be much more human than we realize, in other words. In which case, we will be thrown back on our heels, and thousands of years of speculative philosophy will need to be scrapped.

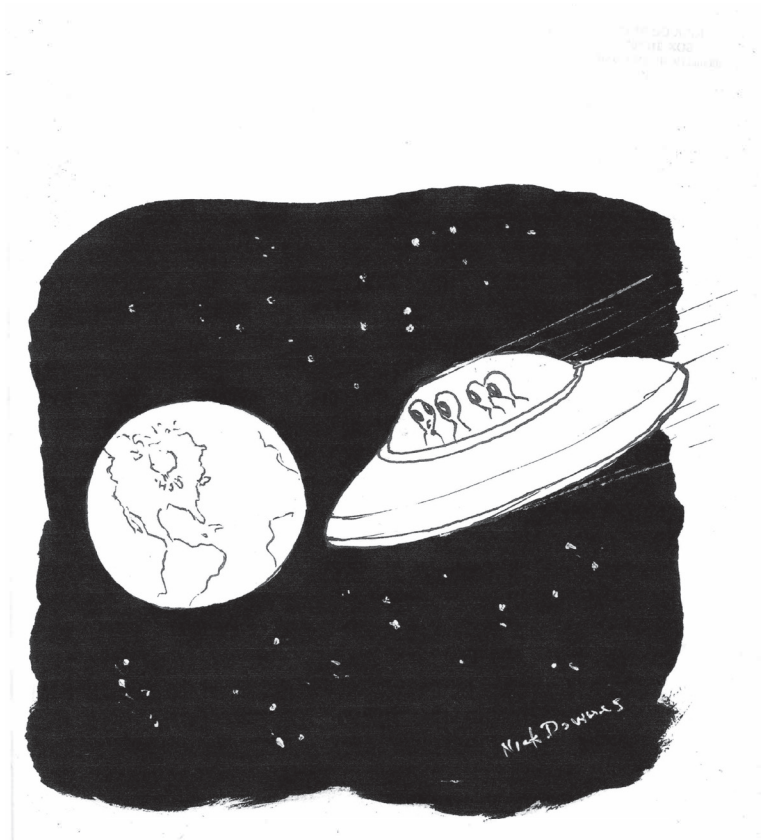
But let’s leave the philosophical quibbling aside and ask: What if there really are a myriad of communities out there, huddling on planetary specks in the trackless ocean of inky nothingness chilled to just a touch above absolute zero? Some scientists say it’s highly unlikely. According to these and other cynics and skeptics, alien civilizations probably don’t get much beyond our own level of technological advancement. Once they discover nuclear weapons, the argument goes, it’s only a matter of time before they use them on one another, wiping out their race with hydrogen and plutonium bombs. Instead of doing SETI, some claim, we ought to be doing SEETI, or the Search for Extinct Extraterrestrial Intelligence.²⁰

That may be true, but given human history, isn’t it much more likely that aliens don’t end their own civilizations with nukes, but rather abort themselves into oblivion? If there are any lonely alien hearts on other worlds peering into telescopes and tuning massive radios to try to detect signs of life from, say, us, floating along the hazy outer bands of the Milky Way, then surely those hearts, too, grieve for something much closer to home than puzzling equations and cosmological theories that don’t quite add up. The real “UAP” is the Unidentified Abortion Phenomenon—the only guaranteed way so far devised for an intelligent civilization to destroy itself. Surely other lonely hearts of the cosmos, alien scientists at their telescopes and radar screens on fantastic worlds in distant galaxy clusters, sigh from time to time and wonder where all the little green children have gone.

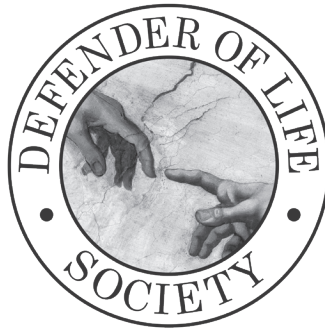
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"In my horoscope, that's a bad luck planet."



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Erika Bachiochi Channels Mary Wollstonecraft

William Murchison

So how'd we get here anyway?—this place, this time we live in, with its vacant predicate for the moral responsibilities of human life?

A question at least as tangled follows hard on the first one: Given that we're where we are, what do we do? I invite suggestions. Erika Bachiochi has a few—probing, challenging, richly informed.

I do not myself endorse every one of them. I think, all the same, that Mrs. Bachiochi's newly published work, *The Rights of Women: Reclaiming a Lost Vision* (University of Notre Dame Press), succeeds brilliantly at the, let's just say complex, business of showing how rights-seeking women and their families, including unborn babies, can be considered complementary glories of life.

She is thinking. She is questioning. I find this wonderful—a wholesome departure from the spirit of “Oh, well!” that has long blocked pathways to recovery of life's redemptive qualities. That we can talk, a little bit anyway, about redemption shows the existence among us of a saner spirit than the one now ranting and rampaging through our times: the spirit of “Gimme.”

Erika Bachiochi, a well-schooled, impressively balanced scholar of growing repute, takes it upon herself to suggest what the good life represented on the broader, saner avenues of civilized life, prior to its virtual disappearance during the eruptions of half a century ago, and longer. She looks to the formulation of right understandings, and of policies that proceed from those understandings. I cannot say I think she has all her policies right. For one thing, policies and politics constantly rub up against each other. We cannot at the same time rule politics out of play in the restoration of notions abused by politicians enjoying their power and their hopes for more of it.

We have to know what to expect of politicians: how far to walk with them, how closely to watch what they're doing with their hands. That is the point. And what is it we can hope for from the alliance Bachiochi envisions—present-day policy makers working to sweep up the moral rubble left lying about the place by past policy makers? Just this maybe: the creation of environments where parents can impart to children, with minimal contradiction from outside, the good old human ideals that commence with love and the caregiving that proceeds from love.

The author is a feminist. She revels in the freedoms women now enjoy in

William Murchison, a former syndicated columnist, is a senior editor of the *Human Life Review*. He will soon finish his book on moral restoration in our time.

consequence of work by women as far back as Abigail Adams who aspired to the fuller deployment of their God-given abilities. A particular strength of the early feminists was their ability to see freedom as something other than license. It entailed duties that the ladies of the time happily embraced. Marriage and children they acknowledged as good things. The moral training of children, and their fitting thereby for the world, was a particularly good thing. Duty and freedom labored side by side. The Lockean, me-first latitude Mrs. Bachiochi blames for today's moral decay wasn't much in evidence. Duty—which Robert E. Lee, a man, admittedly, as well as a Confederate, called the most sublime word in the English language—stayed liberty's wilder excursions.

Duty, liberty—we don't much encourage that linkage around the house that exultant feminism has built for its followers. Who does encourage it? Who would? Mary Wollstonecraft would. Erika Bachiochi would.

The time has come for some introductions. First, the author herself. I have mentioned little about her besides her name. Erika Bachiochi is a scholar of the millennial generation, with a husband Dan, seven children, a law degree from Boston University, affiliations with the Ethics and Public Policy Center as well as the Abigail Adams Institute, and much-noted bylines in *First Things*, *The Atlantic*, and *National Affairs*. The lady is a self-described pro-life feminist, with, lurking in her Middlebury College C.V., a stint as volunteer for then-Rep. Bernie Sanders. How do we like them Vermont apples? We chew them thoughtfully, not ungratefully.

So. Mrs. Bachiochi, meet Mary Wollstonecraft. Or, more precisely, embrace her: attentive pupil acknowledging inspirational teacher. Mary Wollstonecraft, 200 years dead, is for Erika Bachiochi a kindred spirit; a writer who set much of England and America by the ears with her arguments (in the similarly named *A Vindication of the Rights of Woman*) for the right of women to exercise their full abilities in the cultivation of virtues that dated at least to Aristotle.

"Promotion of virtue," her American disciple writes, "was the sole principle by which she judged relationships, institutions and regimes . . . Her fundamental belief remained throughout [her life and career]: Each person was of equal moral worth, whatever his or her status, and this provided the surest foundation for promoting each and every person's human capacity for wisdom, virtue, and thus happiness."

The freedom to which she aspired was freedom for excellence. Father was not the rival of Mother, nor Mother the challenger to Father. They were properly a team. Today's abortion culture would have shocked her to the core. (Historical note: Mary Wollstonecraft—who died in 1797—was parent, with William Godwin, to the Mary Wollstonecraft who, as Mary Shelley, wrote *Frankenstein* in 1818.)

Wollstonecraft's somewhat unpredictable (in view of Godwin's atheism)

attachment to Christian morality captivated the budding feminist scholar. The defects of feminism, 20th and 21st-century style, swam before her eyes. She writes, in her introduction:

The trouble with the women's movement today lies . . . in its near abandonment of Wollstonecraft's original moral vision, one that championed women's rights so that women, with men, could virtuously fulfil their familial and social duties. Nowhere is such an abandonment clearer than in the revolutionary assault on the mutual responsibilities that inhere in sex, childbearing, and marriage that began in the 1960s and '70s. The modern day fusion of the women's movement with the sexual revolution . . . is a great departure from Wollstonecraft's original moral vision and that of the early women's rights advocates in the United States too: it has cheapened sex and objectified women, [helping upend] the American promise of equal opportunity for the most disadvantaged men, women, and children today.

Which argument, at first glance, seems in want of some adjustment. The sense of the thing, to moral traditionalists, is wholesome and compelling. But *Mary Wollstonecraft*, for goodness' sake!—English; out of the cultural ballgame for centuries; subject to confusion with her famous daughter. What have we got here, a cozy Ph.D., dissertation?

I resist the surface logic of such objections: because, for one thing, with Wollstonecraft we are just at the start of the story. More introductions lie ahead—Susan B. Anthony, Lucretia Mott, Elizabeth Cady Stanton, Jane Addams, Betty Friedan, Ruth Bader Ginsburg; most important in some sense, the widely celebrated professor of law Mary Ann Glendon. There is a thread here. The movers and shakers of women's rights were not out to nail down and perfect a woman's right to follow her bliss wherever it led, to rear her ambitions and sensibilities above all others. Ruth Bader Ginsburg, for instance, was a more nuanced advocate of female liberties than her secular sainthood would lead one to believe. She hoped, says Bachiochi, "that by freeing both women and men from legally determined familial and social roles, the law might open the way for better collaboration between men and women in the family and in the workplace." Lucretia Mott had never argued that women should go all-out for liberty. She had believed, as Bachiochi summarizes it, "that moral suasion was the best means toward societal improvement"—better even than the vote. Get that: moral suasion; the inculcation of timeless principles that fortify all claims to human worth, such as honor and dignity.

Abortion? No more than Mary Wollstonecraft, in the lace-trimmed long-ago, would have smiled on the extinction of unborn life did successor campaigners for female rights suggest those rights included renunciation of motherhood. The choice advocated by Wollstonecraft and those who came after her was often identified as "voluntary motherhood"—an idea that turned on mutual, male-to-female appreciation of the biologically indicated timing for conception. It was

at the very least a feasible ideal, practiced without accompanying demands for government intervention. By contrast with that much-laughed-at 19th-century standard, Bachiochi writes, “relatively easy abortion access has relieved men of the responsibilities that accompany sex, and so has upended the duties of care for dependent children that fathers ought equally to share . . . As the #MeToo movement has revealed in spades, the new ‘coital animal’—lacking the formative schooling of desire expected of an aspiring gentleman—will not so readily heed the word ‘no.’” The bonneted countenance of Lucretia Mott would nod, I venture, emphatic agreement.

The what-do-we-do-now question looks out through the stitchery of the Bachiochi-Wollstonecraft thesis. Continued tolerance of Gimme culture erodes possibilities for the good life as formerly understood. Do something—yes! But what? To Professor Mary Ann Glendon, Mrs. Bachiochi turns for ideas. What kind? Those that reflect “the modern quest for political liberty and legal equality with an older appreciation of the essential goods of family and community, and of the intellectual excellence for which all human beings properly strive.”

Sounds tricky and perilous, to be sure: a trade-in of “equal equality” for “equal dignity” as a social goal, including, as Bachiochi puts it, “reciprocal relationships of mutual respect, interdependence, and collaboration in all realms of life.” And without guarantees for performance.

Organized society—aka government—plays, it is true, a far lesser role than it once did in the support of traditional families and their practices and customs. Families don’t get the moral and legal support they once did. Government policies—no-fault divorce, for instance—often have the result of loosening family connections, funding the absence of fathers, the diminution of any desire to work: without which desire, families tend to break up. As Prof. Glendon writes, U.S. law, of a libertarian cast, “fosters a climate that systematically disadvantages caretakers and dependents.” Individual autonomy is its hallmark; the noisy, nasty needs of children hardly compare with the ambitions of many a modern mom.

The attitudes—attitudes as much as specific policies—that Prof. Glendon and Mrs. Bachiochi embrace are called communitarian. Communitarianism is a new species of conservatism, arising in response to intensifying criticisms of the “Lockean” outlook, with its bias toward individual liberty. What’s individual liberty doing to and for our society if not encouraging the idea that individual, uncoerced choice is the star by which we must steer? “Choice” in the matter of abortion could be called a Lockean legacy, notwithstanding that the great John Locke, from whose surname comes the suddenly depreciatory adjective, was a Christian whose conscience would certainly flinch from representations of his thought as connected with Mr. Justice Harry Blackmun’s in *Roe v. Wade*.

What Locke would make of our unsettled, unsettling times—I feel sure he would not enjoy living in expectation of a congressionally engineered socialist takeover—is hardly the essential point for us. That point is, who’s going to enact all these nice communitarian policies that are supposed to undermine Lockean doctrines and restore the good old ways? Will they, can they, if adopted, displace Gimme-ism with a more general sense of personal dignity? Then who’s going to make sure they have adequate budgets, and are run by reasonable people, and actually work as designed? If the shepherds and tenders of communitarianism end up belonging to the present political class, with its record of dumb mistakes and overbearing approaches to governance, communitarians might come to question “family-friendly” ideas that work their way into political campaigns.

There’s a lot of work to be done, clearly, before the Wollstonecraftian vision gains, according to its merits, widespread purchase on hearts and minds. That work has an obvious political element. I am more disposed than Erika Bachiochi to see its principal element as educational, instructional, even—okay, I’ll say it—propagandistic. And religious: that above all, probably. We forget the extent to which our cultural dispositions, our understandings of duty, our sense of place in the universe, proceed from inherited faith in God and His sovereign purposes for, as we said in pre-wokeness days, mankind. These are not great days for religious witness. On the other hand, maybe that fact makes them superb days for religious witness.

Mrs. Bachiochi’s strong, emotionally temperate, and well-informed book—which I commend to *Human Life Review* readers—is no manifesto for communitarian policies, much as she admires them. Her admiration is worth taking into account not least because it keeps company with her probing analysis of the mess into which the abandonment of earlier feminist ideals leaves us wallowing.

Votes for women and motherly devotion to family, as Bachiochi tells the story, were in the former times immensely compatible elements of life. To make family members better is to make life better. Isn’t it? If not, why not? Bachiochi would have it that “the older women’s movement understood what today more and more young parents have come to appreciate: The life of the home can be enjoyed as a deeply collaborative task, shared by both mothers and fathers. Indeed, it is a joint project that many women and men today regard as the most important work that they do, and one that they take very seriously.”

Mary Wollstonecraft, from her ladylike roost amid porringers and candle smoke, could not have guessed her relevance to the age of silicon. But that relevance just keeps growing.

BOOKNOTES

THE ABOLITION OF WOMAN: HOW RADICAL FEMINISM IS BETRAYING WOMEN

Fiorella Nash

(Ignatius Press, 2018, 240 pp., softcover, \$17.95)

Reviewed by W. Ross Blackburn

The abortion movement is built upon a foundation of euphemism, half-truths, and outright lies, and relies heavily upon straw men. And perhaps the most common and effective of those straw men is that proliferators (despite being over 50 percent women) don't care about women. "Pro-life, it's a lie, you don't care if women die!" is a clever slogan shouted in protest at pro-life rallies, often accompanied with posters of coat hangers. If you are a proliferator, you only care about unborn children (or, more cynically, about controlling women's bodies). As for born children and their mothers—well, not so much. The abortion movement has been largely successful in pitting mother against child.

The rhetoric has sunk deeply into our consciousness. Years ago I was speaking with a woman about thirty years older than I am who was part of my church and an avid abortion supporter. She was insisting that women need abortion, and I suggested that abortion is not a zero-sum game, that what harms the baby can never be good for the mother. After all, don't the Scriptures tell us that God can bring good from evil, that He works all things together for good for those who love Him? She looked at me somewhat condescendingly and said, "but we know that isn't true." I knew it was in fact true, but didn't really know what to say to her.

How I wish I'd had Fiorella Nash's book.

The Abolition of Woman: How Radical Feminism is Betraying Women isn't about abortion per se, although Nash hits abortion hard. It's about women, and particularly the ways in which our world, aided by radical feminism, is seeking to do away with womanhood.

The Abolition of Woman is, of course, an allusion to C.S. Lewis's *The Abolition of Man*. In a nutshell, Lewis argued prophetically that as man left traditional morality aside, we would forget who we are and ultimately seek to recreate ourselves. Or, more precisely, some men would seek to recreate other men according to their own desires and vision of who man should be. In this, Lewis was particularly concerned with the role of science: "The final stage is come when man by eugenics, by pre-natal conditioning, and by an education and propaganda based on a perfect applied psychology, has obtained full control over himself. Human nature will be the last part of nature to surrender to man."

Ultimately it is the story of oppression.

While Nash goes about it in a different way (Lewis wrote as an academic philosopher/theologian, Nash is a philosopher/theologian who writes more like an investigative journalist), her argument is quite similar. For all the laudable goals of feminism, modern feminism has forgotten who woman is, and seeks to mold her into something she isn't, thereby oppressing the women it claims to empower. Nash's book is a collection of essays that give practical examples of this.

Three aspects of Nash's approach are particularly praiseworthy: Her exposition of ways in which modern feminism oppresses women, her logic and use of analogy, and her treatment of women as women.

Exposing Oppression

First, Nash exposes ways in which feminism oppresses women, some of which many of her readers (like myself) may not have thought of. For example, Nash speaks of how the abortion movement, despite all the rhetoric of choice, drives women to abortion by robbing them of the information they need to make informed choices. In reflecting on the violent nature of the abortion procedure, she writes of the ubiquitous use of terms like "gentle suction" or "gently opening the cervix" used by abortionists to describe an abortion: "I have never seen the word 'gentle' used so frequently and so pointedly in medical literature except in the apparently factual, no-nonsense materials put out by abortion facilities." Not only is this deceptive language directed toward women who are under great pressure, but it treats them like children. Nash goes on: "It is difficult to see how women can be expected to feel empowered if they are treated like panicky infants in need of constant reassurance that it will all be very gentle, rather than grown women capable of hearing the facts" (pp. 46-47).

Perhaps the most illuminating example of feminist oppression of women is her discussion of Assisted Reproductive Technologies (ART). Because ART is generally meant to bring forth life, not to end it, and because infertility is a real and painful reality for many, one can easily overlook the way these technologies oppress women. For example, by severing procreation from sexual union, ART (like abortion) promises to free women from their own biology, allowing them to have children beyond their natural childbearing years. However, aside from the difficulties of raising children at an older age, the process is anything but straightforward, and the risks fall solely on women. Women take certain drugs to stop menstruation and others to stimulate ovulation, and then undergo surgery to remove the eggs—all potentially dangerous (both short term and long term) to a woman's physical and mental/emotional health. Eggs and sperm become commercialized as raw material, without regard to the donors becoming parents.

Furthermore, commercial surrogacy makes it possible to rent the womb of

a woman. The inevitable questions arise: Who, then, is the mother? The egg donor, the surrogate, or the mother who adopts? Is the father the sperm donor or the man who adopts? A child can potentially have five people with a claim to be a parent—a quagmire for the adults, and an injustice to the child. In addition, a surrogate mother loses rights over her own body. For example, India’s surrogacy laws allow for up to three embryos to be implanted into the woman serving as a surrogate, which not only poses potential danger to her health, but may mean that she must later undergo an abortion if she gestates more children than the contract allows. And what happens when the surrogate mother bonds with the child she is carrying as her own? Having no legal rights over the child, she must surrender him. If she experiences any physical or mental/emotional fallout post-partum, she is on her own; the services of a surrogacy clinic end when the baby is born and given over. And, unsurprisingly, commercial surrogacy targets poor women. Nash’s language is pointed—she speaks of “fertility tourism” as “the colonisation of the female body through the purchase and control of women’s fertility” (p. 91). Aware of the heartache infertility brings to women and men, she argues, “A truly pro-woman approach to infertility does not exploit or endanger a woman’s body or create and destroy human life at will, but nor does it abandon a woman to deal with childlessness alone” (p. 108).

Logic

A second strength of Nash’s work is her logic, particularly demonstrated in her use of analogies. A large part of what she is doing is knocking down straw-man arguments that have been used for years in the pro-abortion movement. Particularly powerful is the so-called “back-alley” argument that women’s lives depend upon legal abortion. While the “rare” has been dropped from the political slogan “safe, legal, and rare” in the United States, abortion supporters depend upon a perceived connection between safe and legal.

What is meant by safe and legal, Nash asks, when it comes to abortion? According to the World Health Organization, unsafe abortions are “abortions done in countries with highly restrictive abortion laws, and those that do not meet legal requirements, in countries with less restrictive laws. Safe abortions were defined as those that meet legal requirements, in countries with liberal laws, or where the laws are liberally interpreted such that safe abortions are generally available.” Here we see circular reasoning at its finest: Abortion is safe when it is legal, and when it is legal, abortion must be safe. Elsewhere, the WHO describes unsafe abortion as “a procedure for terminating an unwanted pregnancy either by persons lacking the necessary skills or in an environment lacking the minimal medical standards or both.” That gets closer to a real definition, but, as Nash notes, does not rule out legal abortion, as the exposure of the infamous Kermit Gosnell made widely plain.

The abortion movement insists that abortion saves women's lives. Does it? Putting aside for the moment the lethal violence visited upon the child, when legal abortion is equated with safe abortion, abortion supporters create the illusion of supporting women. Interestingly enough, it has been the pro-life movement that has insisted on stricter medical regulation over the abortion industry, while abortion supporters complain that such regulations will restrict abortion access. For pro-choicers, availability is evidently more important than safety. Nash's exasperation is plain as she points to the "Alice in Wonderland logic" of abortionists who get away with wounding women by claiming that they are defending women's rights and freedoms (p. 49).

Nash's use of analogies is particularly persuasive. Commenting on the way abortion supporters deny the trauma that abortion visits upon many women by accusing them of being weak, emotionally troubled, or attention-seeking, Nash observes that abusers treat their victims in exactly the same way: ". . . every tactic used by abortion supporters to silence post-abortive women mirrors precisely the tactics used by abusers to shame their victims into silence, down to forcing victims to question their own sanity." Painting pro-abortion choicers as akin to domestic abusers is a damning observation given the pro-choicers' claim that they are looking out for the well-being of women.

There are other analogies. Nash takes umbrage at the claim that the abortion pill is like having a miscarriage. This is like justifying the killing of some people because others die of disease. In response to the pragmatic-sounding argument that abortion should be legal because it will happen anyway, Nash asks whether rape or domestic violence should be legalized because they too will persist. To bring in another analogy, if we would not trust the research of a fast-food chain to shape health policy, why do we allow abortion policy to be formed by research outfits owned by those who profit from it (p. 148)? Nash also wonders why many refer to the brutally oppressive and discriminatory "one-child policy" of China in neutral terms when we readily call out the evils of apartheid or segregation (p. 80). And why are Western feminists, so concerned with the equality and welfare of women, strangely silent about the atrocities committed against women in China? These kinds of analogies go a long way toward exposing what is at stake, and asking us if we are really consistent in what we say we believe.

Seeing Women as Women

Much modern feminism wants to recognize women as persons, but not *as women*. Of course, both women and men are human beings made in the image of God. But, contrary to the insistence of our confused culture, there is no such thing as a sexless person. We are either male or female. And in order to live well as male and female, we need to learn to honor one another for who we are, not

who we might wish one another to be.

Nash argues that, in the name of empowerment, modern feminism belittles women. On one level, as alluded to above, modern feminism treats women in precisely the ways feminism sought to remedy. Concerning pro-abortion rhetoric, she pulls no punches:

[I]f women are to be treated as fully emancipated, empowered adults, it is hardly unreasonable to ask women to face the full consequences of their actions. Short of turning the planet into one vast safe space replete with Playdoh and films of gamboling ponies, it is difficult to see how or—more importantly—why women should be protected from the reality of their own choices in the name of empowerment (p. 208).

In effect, Nash asks feminists, indeed all of us, “Do we believe women fully capable of standing on their own feet and making sound and mature decisions, or do we need to sugarcoat reality and not trouble them too much?” Underneath her arguments, I hear her asking feminists if they believe that women are equal to men, and if so, why don’t they act like it?

But on a more fundamental level, modern feminism belittles women by denying their unique character. With particular poignancy Nash demonstrates that China’s one-child policy is inherently oppressive to women. For Nash, forced abortion joins two particularly female terrors, the violent loss of a child and rape; in fact, she terms forced abortion surgical rape. But at a deeper level, to claim control over a matter as intimate as sex and childbearing is inherently oppressive. To separate the being of a woman from the possibility of motherhood, or to regulate it, is an injustice to who she is. Nash quotes a woman coming to terms with infertility:

My life is a poor place for not having children, and while I’m sure lots of women in my situation don’t share my sentiments, I feel I am less of a woman—emotionally and physically—for not being a mother. There is a vast realm of experience and growth I will never know, and a love that will be forever unexpressed. I know that what any mother describes as the most profound love she has ever known is, to me, a locked door—that there is so much love I will never be able to give, wisdom and understanding I cannot share, shelter and solace I cannot provide (p.107).

Nash also deals with the gendercide of women (particularly but not limited to China) and the objectification of women as sex objects, and she shows the degree to which maternal mortality is connected to the promotion of abortion. In other words, there is a lot here that most of us don’t know or haven’t thought through carefully enough. Honestly, there is much here that we probably don’t want to know. Which is all the more reason to read this book.

The Abolition of Woman is among a handful of the most important “pro-life” books I have ever read, precisely because it is focused upon women. It is also a hard book to refute—Nash has done an enormous amount of research. My hunch is that it will reach two groups of people in particular. First, those who are unreflectively pro-abortion. Nash exposes the deception that abortion-minded

feminism has the best interests of women in view. It does not. Second, the church and the pro-life movement. Nash's book challenges us, for it asks if we "love them both" (mother and unborn child) as we say we do. For my part, I think this is largely true of the pro-life movement. But we have our blind spots, and Nash serves us all by exposing them. In today's cancel culture, where we see the accelerating abolition of both women and men, Nash offers a bracing dose of sanity. Of one thing I am sure, and it is probably the best thing I can say about this book—Planned Parenthood will not want you to read it.

—*Rev. Dr. W. Ross Blackburn, who created the feature A Pastor's Reflections for the Review's website, has been Rector of Christ the King, an Anglican Church in Boone, North Carolina, since 2004.*

LOSING OUR DIGNITY: HOW SECULARIZED MEDICINE IS UNDERMINING FUNDAMENTAL HUMAN EQUALITY

Charles C. Camosy

(Hyde Park, NY: New City Press, 2021, paperback, 224 pp., \$22.95)

Reviewed by Wesley J. Smith

Utilitarian bioethics poses one of the great contemporary challenges to universal human equality in the West. But most people are not aware of the peril that this way comes. Indeed, most of us pay little attention to bioethics (the term is a contraction for biomedical ethics). As a consequence, many believe that medicine and the ethics of healthcare are still governed by the "do no harm" values of the Hippocratic Oath, when the truth is exactly the opposite.

Here's the problem in a nutshell: Most influential bioethicists generally reject the equal dignity of all human life, and instead embrace variations of what is known in bioethical parlance as the "quality of life" ethic. As suggested by the name, this ethic grants different moral value to people—and even animals—based on their individual "relevant" capacities. Humans who don't pass muster—the unborn, infants, people with cognitive incapacities or dementia—may even be categorized as "non-persons" and then exploited as natural resources—or even killed. To mention perhaps the most notorious example: Terri Schiavo was first diagnosed as persistently unconscious and then dehydrated to death over two weeks by having her feeding tube withdrawn. If you did that to a dog, you would rightly be imprisoned for animal abuse. But do that to a "non-person" human being and it is considered medical ethics.

Of course, not all bioethicists take such a crass view. One of these outliers is Fordham University professor Charles C. Camosy, who has vigorously entered

the public square in word and electronic media appearances to defend the equal dignity and moral worth of every human being. Toward that end, he has authored *Losing Our Dignity: How Secularized Medicine Is Undermining Fundamental Human Equality*, a highly approachable volume that presents a stalwart critique of contemporary bioethics without getting too deep into the philosophical weeds for a lay readership.

Camosy correctly accuses the reigning school of bioethicists of corroding Western Civilization's adherence to universal human rights by undermining the intrinsic equal dignity of the most vulnerable among us. It is an important thesis, and Camosy handles it well without diving too deeply into technical minutiae. At only 194 pages with good-size font (plus endnotes), his book takes just the right approach to engage a general audience with limited philosophical or medical background.

Camosy opens by explaining why human equality is seriously threatened in modern bioethics discourse. He attributes the problem primarily to our culture's growing secularism and the indisputable fact that most members of the intelligentsia reject the theological and philosophical premise that we all "share a dignified nature in common . . . that bears the image and likeness of God."

Much as modern secularists try to do so, there is no denying the historical importance of religion—particularly, Christianity—in creating a culture of compassion for the ill, disabled, and elderly. Camosy provides a good nutshell version of that history and the part that faith played in the growth of our robust public health system, focusing particularly on the contributions of women religious. Indeed, in reading this portion of the book, I wondered where we would be today but for the selfless service of countless nuns to the ill and infirm.

Moreover, he correctly worries that the increased secularization of society and the values that underlie modern healthcare promote the reductionist idea that human beings are merely "so many organic machines." This exposes the most vulnerable among us to being considered discardable for their lack of utility—or worse, used instrumentally.

Wisely, Camosy illustrates his thesis with actual bioethics controversies that have made international headlines in recent years; this also serves to personalize his pointed critiques. He begins with the tragic case of Jahi McMath, the Oakland, California, teenager declared "brain dead" by doctors after a terrible post-throat-surgery bleed. Readers may recall that doctors wanted to force Jahi off life-support—asserting that she was dead—but were thwarted by her mother, Nailah, who filed a lawsuit denying the death declaration and complained loudly to the media. Camosy reports that Nailah's temerity so infuriated the hospital's chief medical officer that—pounding the desk—he callously exclaimed: "What is it you don't understand? She's dead, dead, dead!" Good grief.

Eventually, Nailah was allowed to take Jahi—still on life-supporting machinery—

to New Jersey, a state that allows a religious exemption to a brain death declaration. Nailah's gambit created the incongruity of Jahi's being alive in New Jersey but dead in California.

But was she really and truly "dead?" Beyond Camosy's disbelief in brain death as a legitimate phenomenon—a distinctly heterodox opinion in bioethics, medicine, and even religious communities—he also marshals more specific evidence for his conclusion that Jahi was not dead. For example, Jahi's body did not decompose in the months and then years in which her mother cared for her in New Jersey—and such decay almost always results when people are truly brain-dead. In addition, Jahi started menstruating. Nailah also took videos of Jahi seeming to respond to simple requests, such as to move her hands or foot. Eventually, the videos were viewed by noted neurologist Dr. Alan Shewmon—also a disbeliever in brain death—who wrote a sworn declaration that whatever indications of brain death Jahi exhibited in Oakland, she no longer qualified as a brain-dead patient.

Jahi died of liver failure in 2018—*four years* after California declared her deceased. An autopsy showed improvement in her brain function after the original MRI tests—which should be of tremendous interest to brain scientists, but seems to have left them instead whistling and looking at the floor because of the potential consequences to organ transplant medicine that would flow from a successful challenge of brain death as "dead."

Whatever one might think of brain death, the other examples Camosy presents add great weight to his critique of current secular bioethics. For example, he grapples with the travesty that was the Terri Schiavo case. Camosy describes some of the media bias that permeated reporting about the case—and correctly notes that, regardless of whether she was unconscious (a matter of dispute), Terri did not need medical machinery to sustain her life; she merely required sustenance delivered through a tube and being kept warm and clean.

Schiavo was dehydrated to death by court order and died in 2005. Camosy believes that the popular support for this court order is cause for great alarm. And he correctly blames the bitter cultural divide over abortion. He writes:

Acknowledging that human beings like Terri have fundamental equality with all other human beings simply because of their common humanity would have clear implications for acknowledging the fundamental humanity of prenatal human children—and on the same basis. And to be fair, that is why a good number of anti-abortion pro-lifers also care so deeply about the debates over severely brain-injured populations. The toxicity of abortion politics infects all issues we look at in this book.

It's true. Abortion is akin to the slavery problem of the 19th century. Even when debating issues that would seem to be either ancillary or unconnected, all advocacy roads lead ultimately to abortion—just as they once did to slavery.

And yes, Camosy does devote a chapter to that contentious question. He

provides a brief history of *Roe v. Wade*—much of which will be familiar to those of his readers who are already pro-life—but he also makes a cogent point that I had never considered. The case wasn't really about protecting the freedom of women, but the *rights of doctors*. He writes, "Significantly, Blackmun's opinion mentions the word 'physician' forty-eight times, but the word 'woman' only forty-four times." Indeed, he adds, "It couldn't be more clear than when, in the opening lines of the decision," Blackmun insists that in the first trimester, "the abortion and its effectuation must be left to the medical judgment of the pregnant woman's attending physician" in order to give the physician "the room he needs to make the best medical judgment." Wow.

Camosy also delves into the notorious Charlie Gard and Alfie Evans cases in the United Kingdom, in which doctors and courts refused to continue life support for two catastrophically ill babies *and* prevented their parents from taking their babies elsewhere for proffered care. These are infuriating examples of medical authoritarianism from which the USA is not exempt. For more information, Google search "futile care" and "Tinslee Adams."

Losing Our Dignity's greatest contribution comes toward the end of the book when Camosy prophetically warns that the next degradation of human equality will target people with dementia. As millions of families know, caring for loved ones afflicted with Alzheimer's disease or other forms of dementia can be daunting. And too often the medical system fails all concerned, both in financing and delivering care. Indeed, Camosy correctly observes that it can get so bad that "the care that is offered is not just inadequate, but abusive."

The question is, why? Again, the Catholic bioethicist returns to a consistent theme, writing:

Medicine and medical ethics are much further down the path toward secularization and even irreligion. The same central issue running through this book—whether human equality is fundamental or whether equality comes from having certain traits that not every human being has [i.e., self-awareness, ability to enjoy life, etc.]—presents itself here quite clearly. Many human beings with late-stage dementia cannot be said to have rationality or self-awareness; the same was said, as we saw in previous chapters, of Terri Schiavo, Jahi McMath, and Alfie Evans. They are clearly human beings, but as [Princeton bioethicist Peter] Singer so strongly insists, they no longer have traits that make someone a person.

In other words, these vulnerable people are due to be the next category of humans thrown out of the lifeboat by hastening their deaths—whether through refusing care or lethally injecting them. Bioethics is already normalizing this through advocacy and practice in countries like the Netherlands, Belgium, and Canada.

Camosy closes with a helpful section on what to do about our spreading ethical mess. Basically, he concludes that morality can be restored in healthcare only if each of us engages the issue and pushes back. He urges us to "live out a

culture of responsibility, encounter and hospitality,” by which he means engaging in a variety of actions from “sounding the alarm” to “regularly visiting and volunteering in nursing homes,” to working “to ensure government and other resources provide better care in nursing homes, including better pay and reimbursement rates.”

He also urges us to build bridges of dialogue that focus on the “*objective value* of human beings” (his emphasis). And not just when valuing people is convenient. Inclusion often requires self-sacrifice. He writes, “Justice demands that we treat the vulnerable as the equals of the powerful at all times, even when this is deeply inconvenient (like when doing so strains our resources), and perhaps *especially* when it is deeply inconvenient.” Indeed. That is the very way that Christianity overcame the pagan gods of Rome.

We have now reached the part of a positive book review in which the reviewer generally cites a few quibbles and shortcomings in the text. I have only two: one small and one more substantive.

First the quibble. The book *needs an index*! Camosy’s work is important—not only as an apology for human equality, but as a *resource* for those who engage the devolution of our bioethics and healthcare culture. It is hard for readers to find particular points absent an index that pinpoints where to look.

More substantively, Camosy offers scant help for those who wish to make a more secular argument for human equality. It’s not as if he doesn’t understand the need. He writes, “Aristotle and his followers (both then and now) demonstrate that it is not necessary to accept the theological claims at the heart of this book in order to dialogue about the common nature of human beings and the source of their fundamental equality.”

In our secularizing times, this would seem essential to protecting intrinsic human dignity, but the author mostly punts. That’s a shame. We *do* have a common nature beyond theological understandings that can serve as a philosophical basis for defending the logic of universal human equality. Even a five-page focus on those arguments—and perhaps, references for further research—would have helped the activists he hopes to inspire engage the issue with those who either reject God or don’t think that religious values are a proper basis for crafting public policy.

But don’t let my mild pique at that dissuade you from digging into the richness of *Losing Our Dignity*. Camosy has written an important and timely reminder about the perilous times in which we find ourselves and the stakes of current bioethical discourse. Please read the book and join the cause of protecting the medically vulnerable. The life you save may belong to the one you most love.

—Award-winning author Wesley J. Smith is chairman of the Discovery Institute’s Center on Human Exceptionalism and author of *Culture of Death: The Age of ‘Do Harm’ Medicine*.

FROM THE HLR WEBSITE

ROE V. WADE FOR DUMMIES

Diane Moriarty

On December 1, the Supreme Court will hear arguments in *Dobbs v. Jackson Women's Health Organization* (an abortion clinic), a case challenging the legality of a Mississippi law that bans abortion after 15 weeks of pregnancy. Mississippi has asked the Court to overturn *Roe v. Wade* through the use of a statute that prohibits abortion before viability. So, viability is back on the table, as it should be. Many scholars on both sides of the debate agree that the High Court has never given a satisfactory justification for its viability rule. More broadly, I believe ordinary citizens, and certainly feminists, should take an unvarnished look at how *Roe* came to be. *Abuse of Discretion: The Inside Story of Roe v. Wade* by attorney Clarke D. Forsythe does just that. It's a scholarly book, which I usually find as interesting as watching paint dry, but this one is different. Yes, it's chock-full of *Smith v. Jones* and all such, and there are a lot of names and dates to keep straight, but a comprehensive index and notes section makes that easy to do and, most importantly, Mr. Forsythe has a very engaging writing style and a natural gift for telling a story so, odd as it may seem to say, it's a good read. And a timely one. I was late getting to the book—it was published in 2013—but having just read it, here's my ordinary citizen's take on the story it reveals.

Roe v. Wade gets all the attention, but *Doe v. Bolton*—*Roe*'s companion case decided the same day—was even more far-reaching. *Roe* made abortion for any reason okay before viability, defining viability as able to live outside the womb, and set it at six months—thus blithely tossing out the traditional definition of viability as “proof that pregnancy was progressing.” Like feeling the baby kick. How's that for a big clue? It usually happens between 14 and 16 weeks. Of course, viability becomes a moot point when abortion is undertaken to save the life of the mother; the law has always had a life-of-the-mother provision. But then *Doe* went even further, making abortion possible for any reason, even after fetal viability, by expanding the scope of “life” of the mother to embrace “health” of the mother, and defining health to include emotional well-being. We're not talking nervous breakdown here. We're talking about any emotional reservations a woman may have about being pregnant. Such as: I don't want to be. Ironically, Sandra Cano, the Mary Doe in *Doe v. Bolton*, changed her mind once she felt her baby kick and decided not to have an abortion. Her lawyer, Margie Pitts Hames, proceeded without her. Why let a little thing like the symbolic client in your class-action suit backing out get in the way of an opportunity to argue a case before the Supreme Court?

The Court agreed to hear *Roe* and *Doe* in the Fall of 1971, considering them, as Forsythe relates, nothing more than an application of *Younger v. Harris*, a case decided on February 23, 1971, only 60 days earlier. At the time, this deeply disappointed Justice William O. Douglas, who had a long-standing desire to end the abortion laws and was hoping for an opportunity to face it head on.

Younger v. Harris involved federal court intervention in state court criminal proceedings; a doctor who was prosecuted in state court might file a case in federal court to block the state prosecution. So *Roe* and *Doe* were taken up not with the idea to address abortion rights per se, but to decide this jurisdictional issue, and abortion's intricacies were left on the wayside. As Forsythe points out: "The procedural complexities were not something to be lightly dismissed. Indeed, they were asking some of the biggest questions about *Roe*: Should the justices decide this issue? Should they decide it without a factual record? Or without review first by a federal appellate court? Could Jane Roe or Mary Doe clearly and accurately represent the facts of the abortion controversy? Could they represent the 'class' of women seeking abortion? Should the Supreme Court sweep away an important area of criminal law and public health?"

The good news for pro-abortion Douglas was that two of the justices, Hugo Black and John Marshall Harlan II, suddenly retired in September of 1971 due to ill health, leaving only seven sitting justices. A screening committee was charged with selecting less "controversial" cases until the Court was back up to speed, and *Roe* and *Doe*, as merely an application of *Younger v. Harris*—and not requiring a hefty factual record to address the aforementioned difficult legal, historical, or medical questions of abortion—fit the bill. And since Justices Douglas, Stewart, Brennan, and Marshall were calling it only a jurisdiction issue, they stopped looking for abortion cases with a factual and medical record to hear. So, *Roe* and *Doe* were on the schedule and on their way before the Court regained the full complement of nine. My take? It was the embodiment of abuse of discretion. A bait and switch.

Roe issued two important rulings based on interpretations of the Fourteenth Amendment, which proclaims, in part, *that no state shall deprive any "person" of "liberty."* So, step one: Interpret "liberty" to include "right to privacy." At least this interpreting "liberty" step had some case law to back it up, such as 1965's *Griswold v. Connecticut*, which was about marital use of contraception. But step two was outright invention. The justices declared that the "unborn" are not "persons" and so not protected by the Fourteenth Amendment. In truth, the law had treated the unborn as "persons" in terms of property, criminal law, torts, and equity going back centuries. And when the justices created a nationwide right to abortion for any reason throughout the pregnancy, they still allowed the states, through property, tort and criminal law, to protect the unborn from *other* violence during the pregnancy, such as when some lout beats a woman up and

she miscarries. So . . . an unborn child only has protection under the law if he or she is wanted by the woman. That's a lot of power to give to a gender that society didn't tend to empower otherwise. My take? Of the seven justices who voted for *Roe* and *Doe* the youngest was born in 1915 and the oldest in 1898 (Douglas, the most gung-ho). That's before women had the vote, which was not given kindly and caused resentment for many years, and when women were still regarded as the property of husbands. Why just accept the idea that these men acted with feminist ardor?

One of the things in play while the Supreme Court was deciding *Roe* and *Doe* was the "population explosion" frenzy. By the late 1960's claims of a "population crisis" were a major theme in national politics. A federal judge in Connecticut, who struck down the state's abortion law in 1972, cited Paul Ehrlich's book *The Population Bomb*. Ehrlich's prediction that a worldwide famine in the 1970s would kill hundreds of millions of people due to overpopulation would prove wrong. Populations grew, but so did standards of living and income in the U.S. and Asia and Africa. But at the time it was full-blown panic. Robert McNamara, Kennedy's former Defense Secretary, compared it to a nuclear holocaust in terms of urgency, and some of the justices shared this sense of dread. But the only solution these learned men cared to entertain was for women to abort. My take? Only ten years later the AIDS epidemic would generate a successful, nation-wide condom-use campaign and calls for behavioral change. No alternative "population explosion" solutions were considered in 1973. Feminists should ask why.

Let's assume for the sake of argument that the justices, however misguided, were sincere about social parity for women and fashioning a law for abortion on demand was their way of doing it. But why tack on "through the ninth month" when even the abortion-rights movement never asked for *that* much? My take? An "in for a penny, in for a pound" mentality. A desire to satisfy a brave-new-world law of their own invention by holding that once you say it's acceptable to end a pregnancy you must regard it as a totality, not trimesters or feeling the baby kick or even the moment of birth lest you be accused of a discrepancy. They were covering their be-robed behinds.

My take in sum: The Court bent over backwards to expedite the process so *Roe* and *Doe* could be heard, gung-ho Justices Douglas and Brennan arrived at a decision before any arguments were presented, Marshall and Stewart went along, and wishy-washy Blackmun was tasked with writing the opinion. Powell and Burger later changed their minds and were critical of the *Roe* opinion.

What I also take away is a Supreme Court not looking out for the best interests of women. I see "managing the herd." We're encouraged to believe they felt sympathy for the plight of women (without asking men to change in any way), but I don't see sympathy, I see pity. It must be awful to be female! Let's

give gals a way to circumvent biology! But without inconveniencing men.

Roe v. Wade has been the law for 48 years. It won't be totally reversed. So, to the women reading this who are fearful that it might be: Relax, take a deep breath, take off your rose-colored glasses and see this abortion law for what it is and how it got here. You can start by reading Clarke Forsythe's *Abuse of Discretion*—an invaluable trove of facts and information the press has neglected to provide women. Perhaps one day we will develop a holistic, truly woman-centered approach that's not dependent on sloppy law granted by dubious "heroes."

There was an anti-war slogan in the late sixties: What if they gave a war and nobody came? Simplistic and drenched in the arrogance of youth, yes, but I would like to borrow its core principle for our contentious abortion issue: What if they built a legal abortion clinic and it just gathered dust? What would it take for that to happen?

—*Diane Moriarty is a free-lance writer living in Manhattan.*

FREE WILL, FAITH, AND . . . ABORTION?

Gerald E. Murray

We live in a world of contradictions when it comes to many things of great importance in life. Whether we realize it or not, faith in God is the most important aspect of our lives. Since God put us on planet Earth, and God will call us back to himself when our life here comes to an end, the most important thing we can do is recognize our dependence on Him and seek to know what, if anything, He expects of us.

Yet how many there are of us who think we get to tell God what we will and will not accept when it comes to his law and our willingness to obey it. Recently, I watched as Speaker of the House Nancy Pelosi was asked during a press conference what she thought of San Francisco Archbishop Salvatore Cordileone's claim that her Women's Health Protection Act—passed by the House on September 24 to codify abortion on demand in federal law—was "nothing short of child sacrifice."

"You're a Catholic," the reporter reminded her. "Your response?"

"Yeah, I'm Catholic," Pelosi replied,

I come from a pro-life family . . . different in their view of a woman's right to choose than I am. In my right to choose, I have five children in six years and one week, and I keep saying to people who say things like [what Cordileone said]: When you have five children in six years and one day (sic), we can talk about what business is any of us (sic) to tell anyone else to do (sic). It's none of our business how other people choose the size and timing of their families . . . the archbishop of the city of that area, of San Francisco,

and I have a disagreement about who should decide this. I believe that God has given us a free will to honor our responsibilities.

Pelosi treats God's law as something discardable by an act of her free will. She fumes that it is not hers or anyone else's business "how" people choose the "size" or "timing" of their families. But she and her bishop do not have a "disagreement" about who should decide the size and timing of hers or anyone else's family. That is up to the husband and wife. What she and Cordileone disagree about is the morality of using abortion to achieve the desired size and timing. He is being a good shepherd to a wayward sheep in reminding her that killing an unborn child is never an acceptable way to act in pursuit of a goal—any goal.

To violate the fundamental right to life of the innocent unborn child is against God's law. What Pelosi calls a disagreement, as if it were a matter for legitimate debate, is better described as her rejection of what she is obliged to profess in order to be a faithful Catholic. She is free of course to make her rejection clear. But in doing so she ceases to follow God's law and, in her role as Speaker, becomes not only a proponent but an engine of what is in fact child sacrifice. (Only one member of Pelosi's Democratic flock, Henry Cuellar of Texas, voted against her bill.)

Pelosi's appeal to God's gift of free will as a justification for keeping abortion legal (and funded by taxpayers) contradicts Church teaching on the proper and just use of one's free will. The choice to do wrong is in fact a type of enslavement to evil. Her claim to be "honoring her responsibilities" by rejecting her responsibility to follow the law of the God who made her and gave her the gift of faith when she was baptized, is completely contradictory. In fact, she is using her free will in a way that dishonors her duties before God, and she is plainly not happy to be reminded of that.

Pelosi's reference to the fact that she is the mother of five children is another contradiction. How can a mother of five children claim abortion could be a good thing for other women? So here we have the multiple contradictions of a woman who tells us she is a believer, but a believer who does not believe in many of the things her religion requires her to believe in.

The moral of this sad story is that spiritual blindness, often rooted in human pride, is a constant obstacle to obedience. Shepherds such as Archbishop Cordileone do Nancy Pelosi a great service by reminding her, and anyone else who is paying attention, that free will does not have veto power over God's law. Passing legislation to protect a specious right to kill unborn children is not a morally acceptable expression of free will simply because Pelosi asserts that it is. Yes, contradicting God is within our power; but it is always wrong, and in this matter, it is deadly.

—Fr. Gerald Murray is Pastor of the Church of the Holy Family in New York City.

STANDING TALL, FEELING SMALL

Tara Jernigan

I've been fingerprinted several times, from our international adoption to TSA Pre-Check. There's nothing like it for making me feel clumsy—my hands are not my own as someone else rolls my fingers this way and that—or for making me feel like a criminal when I've done nothing wrong. This latest fingerprinting was for a routine ministry clearance and, admittedly, wasn't an interruption I welcomed on a busy afternoon.

When I arrived at the address I was given, I wondered if there had been a mistake. I was in a little corporate office park, but the name of the company doing my prints did not appear on the sign. Then I saw that the suite number I had was listed for a different organization: the Spina Bifida Association. That was unexpected, but since a friend had posted on social media the day before that she'd been fingerprinted in her public library, I assumed some sort of arrangement must have been made and forged ahead.

I had actually come to the right place, and was early for my appointment. The fingerprinting agency, I learned, rented space from the Spina Bifida Association and employed its members. While I was waiting, their receptionist told me about housing and job-training options, camps, and social events that the Spina Bifida Association offered in our area. I shared that my only first cousin is an adult with spina bifida, though when he was born forty-five years ago, I don't think anyone would have imagined there would be an association for people with his condition. Back then his doctors saw no hope for my cousin or for most children like him.

When they were ready for me, a lady in a wheelchair came and escorted me to an office in the back. She was very professional in her dress and demeanor (and had an exquisite manicure that I simply could not reconcile to her mode of transportation). While she entered my essential information into the computer, we chatted a little about life and the awkwardness of being fingerprinted. Then she did my prints and took my photo. There was nothing unusual about the situation at all, except for one thing: I felt huge!

Hers was the only chair in the office. There I stood, looming tall in her seated world, being reminded that the reverse perspective is the daily view for people in wheelchairs. As we look blithely over their heads, they take in far more views of butts and bellies than we would consider socially comfortable.

Standing self-consciously while my fingers were inked and manipulated doesn't sound like a great window for learning, but it was. I've long known that feeling awkward, or even embarrassed, is a fast way to open the mind to assimilate all sorts of new information and recall old lessons more clearly. Standing two feet taller than the world I was in at the moment reminded me of things I

had known when I was growing up but had begun to forget in my day-to-day able-bodied world:

People with spina bifida have the same range of intelligence as people without spina bifida. It used to really annoy me when people would ask if my cousin had normal intelligence. He was the first child in a wheelchair to be in mainstreamed classes in our public school, so I can understand that adults back then had questions. Today we know that being in a wheelchair can often signify a physical limitation, not an intellectual one.

Because they appear to be the height of a child, people in wheelchairs are often infantilized. As I made polite conversation and asked necessary questions, I found myself wondering how many clients talked down to this capable young woman just because she hadn't been able to stand up and shake hands with them. A wheelchair does not strip an individual of his personality, desires, experiences, and opinions. It does not make her less of a living icon of God.

People with disabilities need to be able to live rich and visible lives. Gone are the days when we sheltered the disabled away in institutions, though we have yet to really grapple with how we can really help them find meaningful work, rewarding social lives, and a sense of community belonging. Installing a ramp is not enough to make a church or office building accessible from a wheelchair. Have you ever tried to open a door and push a wheelchair at the same time? It is next to impossible, especially if the doors are heavy or if they open towards you.

The world is built for the able-bodied, mostly for the average-sized male. Every time I stand on tip-toe to knead bread at my own kitchen counter, I am aware that my body is not the industry standard. But standing two feet above everyone else is an apt reminder of what a world built for other people feels like. I was in their space, and it was my turn to feel awkward. In our shared spaces, built for people who can walk, we should do a better job of welcoming those who cannot.

By the time I had my own children in the late 1990s, spina bifida was diagnosed in pregnancy and many of these babies were callously aborted. This horrific waste of human life affects not only the families who abort their children, but the wider world, which will be slower to learn the lessons a visible wheelchair-dwelling community can teach us. Those who find their way into wheelchairs later in life will find fewer mentors who have known the seated life from childhood. Those who live with spina bifida and other congenital disabilities will have a harder time establishing community with one another and acceptance in the able-bodied world.

I may have been a little grumpy going into the appointment, but I left feeling grateful. Not for all my blessings but for having met the good people at the Spina Bifida Association, to have learned more about their work, and to have recalled the lessons of my childhood. Yes, I was also grateful to have had

an easy and professional fingerprinting experience, but that was not important compared to the powerful reminder I got that each one of us has a place and a call in this world.

—Tara Jernigan is a vocational deacon at Christ Anglican Church, New Brighton, Pennsylvania. 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.

WAITING FOR *DOBBS*

Ellen Wilson Fielding

I have been reading *The Mystery of the Charity of Joan of Arc*, a play that French poet Charles Peguy wrote more than a century ago. For the French especially, Joan of Arc's life and death are an inspiring patriotic touchstone to return to in times of national crisis or self-doubt. (Though the French are not the only ones Joan inspires: Such radically non-French personages as Mark Twain and Winston Churchill were also drawn to her story.)

Peguy's play takes place before Joan enters history, while she is still at home tending sheep. She has not yet heard the heavenly voices commanding her to lead the French army to victory against the English and the traitor Burgundians. She is thirteen years old and deeply unhappy—as 13-year-olds can be—with the state of the world, which for her essentially means France, where the Hundred Years War (not so named then, of course, since you have to know when an event will end before you can give it a numerical name) is going on and on and on. Year after year poor peasants, good country people, have their crops stolen and their homes ransacked by the battling armies. Joan asks, as each one of us asks when long assailed by our own seemingly endless national and domestic tragedies—as the Jews in the Old Testament asked throughout their own trials—"How long, O Lord?" In Joan's view, "God grants fewer and fewer of our wishes." With a sort of prophetic passion, Peguy then places in her lips a bewildered denunciation of war:

It's always the same thing, the match's not even. War wages war on peace. And peace, of course, does not wage war on war. Peace leaves war in peace. Peace kills itself through war. And war does not kill itself through peace. Since it did not kill itself through God's peace, through the peace of Jesus Christ, how should it kill itself through man's peace?

Peguy's play was published in 1910. Four years later, in Sept. 1914, Peguy died at the age of 41, at the first battle of the Marne.

The chaotic and destructive character of our own times—destructive of bodies,

minds, and even souls, so far as we can judge this side of eternity—can cause us too to ask, “How long, O Lord?” In this country that has from its beginning been a destination for those seeking sanctuary from tyranny, poverty, and persecution, we have been witnessing a decades-long onslaught against human life: against the young, the old, the handicapped, those despairing of their capacity to negotiate the demands of life, those whose difficult or restricted lives appear to threaten the freedom and wellbeing of others, and, most recently, those confused young people egged on to believe they can be architects of their own sexual identity. Along with these we have also witnessed encroachments against the free exercise of once-mainstream religious beliefs.

Our current human life crisis dates from the 1960s, when the first liberalized state abortion laws appeared, though in another sense it can be traced back to the European revolutions of the 1800s, and in another sense to the Enlightenment (and perhaps in another sense, digging down all the way to the roots of our rebellion against the implications of human nature, to the Garden of Eden). However, the more recent intensification of the assault on human life, its meaning and its identity, has emerged with shocking suddenness.

If, as we have all repeatedly been directed to do over the past 18 months, I attempt to better understand how we got here by “following the science,” I will find there, if not a full-blown explanation, at least a suggestive analogy that makes more understandable the deterioration in our attitudes and treatment of the unborn, the old, and those seemingly lacking both utility or quality of life. For among the most self-evident of the fundamental physical laws is entropy, “the degradation of the matter and energy in the universe to an ultimate state of inert uniformity,” or, when the concept is applied beyond physics, “a process of degradation or running down or a trend to disorder.” Yeats turned the idea into memorable poetry in “The Second Coming,” a poem written not long after Péguy’s work: “Things fall apart;/The centre cannot hold; . . . The blood-dimmed tide is loosed, and everywhere /The ceremony of innocence is drowned.”

Tutored by the Whig school of history to view the human story as a long and largely uninterrupted march of progress, we are perhaps more surprised by moral, social, and religious regressions and fallings away than we should be—or than is good for us when we happen to be living in an era of enormous slippage of earthquake proportions along the San Andreas fault of Enlightenment rationalism. As T.S. Eliot reminded his own post-World War I era, “there is no such a thing as a Lost Cause because there is no such thing as a Gained Cause . . . we fight rather to keep something alive than in the expectation that anything will triumph.”

While this may seem a depressing way to view the human story, it actually helps us to avoid complacency in tranquil times and despair in times of decadence and turmoil. Erosion, slippage, the downward pull of the moral equivalent of gravity (another physical law!)—these are perennial challenges. We are

inclined to see the light and dark of history in ways opposite to their true proportions—imagining that long eras of light should be punctuated by only brief dousing into darkness. However, the reverse shows the truer picture. Tolkien (whose fantasy *The Lord of the Rings* is sometimes foolishly termed escapist) also knew this well and built it into the mythology of Middle Earth. In a letter he famously wrote: “I am a Christian and indeed a Roman Catholic, so that I do not expect ‘history’ to be anything but a ‘long defeat’—though it contains (and in a legend may contain more clearly and movingly) some examples or glimpses of final victory.”

Therefore it is important for us to recognize that, even if the Supreme Court improbably rolls back *Roe* next year, thereby returning to each state legislature the right to determine whether and how abortion will be legal, we are not the nation we were in 1973. Today, the Americans who await the justices’ abortion decision in the case of *Dobbs* are much less religious, much less likely to be married, much less tolerant of moral or legal restrictions on behavior, much less self-disciplined, and much less united around a common understanding of the good life or the good society. Legalized abortion did not cause all these alterations, but it certainly did not help. There is no reason to believe that returning abortion to state legislative control would, except here or there, restore public consensus around the sanctity of human life.

Earlier I mentioned how much the law of entropy contributes to our understanding of human societies. At least one other law of physics can also enlighten our current situation: the law of centrifugal force. Recent events have hardened divisions among Americans and created a disturbing coalescing of allegiances according to opposing tribes—whether racial, ethnic, religious, political, or geographic. In such a combative and emotional environment, it is difficult to see how any Supreme Court decision on *Dobbs* will, in the short to medium term at least, contribute to greater recognition of our common bonds of unity as fellow citizens and human beings or prevent further fracturing of our country along lines of perceived self-interest, tribal affiliation, or defense against the ideological other.

Perhaps in our current circumstances, the most positive unifying force we could hope for would be the need to defend ourselves against a shared enemy—a Zombie Apocalypse might do the trick (or, in light of the 2021 U.S. report on UFOs, an invasion by space aliens). But on second thought, perhaps even a potential threat of cosmic magnitude would merely expose how unwilling our contending factions are to cooperate with their current opponents in any way—even at the cost of human lives.

—*Ellen Wilson Fielding, a longtime senior editor of the Human Life Review, is the author of An Even Dozen (Human Life Press). The mother of four children, she lives in Maryland.*

APPENDIX A

[Edward Short is the author of several acclaimed books on St. John Henry Cardinal Newman and a contributor to the *Human Life Review*. The following article appeared in *Catholic World Report* on September 30, 2021, and is reprinted here with the magazine's permission.]

Listening to the Heartbeat of the Pro-life Movement

Edward Short

In *Edward Elgar: A Creative Life* (1987), Jerrold Northrop Moore wrote of the earliest musical formation of the great English composer and, indeed, all children:

Before birth, in the dark womb, the baby's first consciousness of any experience comes in the mother's heartbeat, her breathing and walking, and the sound of her voice. So pulse and rhythm, movement and sound—all manifesting themselves through time—appear on the *tabula rasa* before there is anything to see. . . . Pulse and rhythm, movement and sound are also the elements of music.

Elgar's mother was a Roman Catholic convert, a brave thing to be, as Moore remarks, for a tradesman's wife with no Catholic background in an English Cathedral City in the mid-nineteenth century. She also loved hearing the choir of St. George's Church in Worcester sing the ancient Mass. Doubtless, had she lived to hear it, she would have been enraptured, as the rest of us have been, by her son's incomparable setting of Cardinal Newman's *The Dream of Gerontius* (1900), the finest thing he ever produced. As the composer wrote across the score of the oratorio, "This is the best of me."

What Moore concluded from his musings is striking: "It is the sense of pulse—the source of life itself—that gives music its first and fundamental appeal." And since music, more than any other language, expresses most deeply and most faithfully our sense of the majesty of life, understanding the primacy of life's heartbeat is vital to our understanding its sacred inviolability.

This is also why such an understanding should strike a chord with anyone who has followed the pro-life movement over the last fifty odd years, dedicated as it has been to defending the undeniable life of the unborn, despite all of the lies and obfuscations of the pro-abortion Establishment and their friends in the media. Throughout all of those tumultuous years, no organization has been more admirably attuned to the heartbeat of the pro-life movement than the *Human Life Review*, and in this piece I shall speak with the head of the publication to see how she and her colleagues are faring at a time when *Roe v. Wade* is being challenged as never before.

The *Human Life Review* was founded in 1975 by James P. McFadden (1930-1998), associate publisher of *National Review* to give pro-life writers a quarterly forum in which to articulate and debate the pro-life charge. "Since 1975," as Maria McFadden Maffucci, McFadden's daughter and the current Editor-in-Chief explains,

The *Human Life Review* is the only publication of its kind in the world: a print and digital journal devoted to civilized, thoughtful discussion of legal, philosophical, medical, scientific, and moral perspectives on all life issues. We cover not only abortion but also

euthanasia, suicide, neonaticide, genetic engineering, cloning, fetal and embryonic stem cell research and experimentation, and new issues as they emerge. We also deal with underlying issues of family and society.

Each issue of the *Review* features not only original articles but an appendix of noteworthy articles and opinion columns from other publications. Past contributors of note include: Ronald Reagan, Malcolm Muggeridge, Henry Hyde, John Cardinal O'Connor, Richard John Neuhaus, Clare Boothe Luce, and the late great Nat Hentoff. Present contributors include Helen Alvaré, William Murchison, Eric Metaxas, Ellen Fielding, Hadley Arkes, Wesley J. Smith, Mary Meehan, George McKenna, David Quinn, Anne Hendershott, and William McGurn.

Recently, I sat down with Maria and asked her about how she and the *Review* are covering the current pulse of the pro-life movement. Since some of my questions pertain to the Texas Heartbeat Act, which prohibits a physician from performing an abortion if the physician detected a fetal heartbeat for the unborn child, I should give an overview of it here.

The editors of *National Review*, long-term friends of the *Human Life Review*, captured the essence of the new Texas Heartbeat Act when they wrote:

In an ingenious effort to prevent abortion providers from blocking the Act from taking effect, the Act prohibits state officials from enforcing the Act in any way. It instead authorizes any private person to bring a civil action in state court against anyone who performs a post-heartbeat abortion or who knowingly aids or abets a post-heartbeat abortion. (Federal restrictions on standing — on who can sue — in federal court do not apply in state court.) It entitles successful plaintiffs to at least \$10,000 in damages for each violation as well as to injunctive relief and attorney's fees. Because state officials are barred from enforcing the Act, the usual path that abortion providers would take to prevent the Act from becoming effective — suing those officials to prevent them from enforcing the Act — is a dead end. Instead, abortion providers would be able to challenge the constitutionality of the Act only if and when private individuals pursued civil actions against them.

The fetal heartbeat is usually detectable at six weeks of gestation. The Act went into effect on September 1. While the editors acknowledge that “The private-enforcement mechanism in the Act is a brilliant response to the traps for pro-life legislation that *Roe* and *Casey* have illegitimately set,” they also fear that “There are good reasons to question whether that mechanism is a desirable feature of a model abortion law.”

In any case, they do recognize that “The right time to address that question is after *Roe* and *Casey* have been overturned. Let's hope that the chief justice shows much sounder judgment on that question in *Dobbs* and joins with the five members of today's majority to restore the people's constitutional power to enact strong legislative protections for unborn children.”

CWR: There seems more things happening on the pro-life front than ever. How are you and your staff and contributors rising to the occasion?

Maria McFadden Maffucci: The *Review* is completely on top of the huge prolife news that the Supreme Court is poised to take up abortion in *Dobbs vs. Jackson*, and will focus on the constitutional status of the “pre-viable” unborn. We have online now

at the *Human Life Review* and in our Summer issue a symposium, with seven prolife readers and thinkers across the political and religious spectrum; we have three major articles in the Summer issue on the case; and I have been writing about some of the amicus briefs on our website. This is especially valuable for our readers, because when the news hit, media outlets and social media exploded, predicting—with either panic or joy—the demise of *Roe*. But hyped-up messaging from both sides of the abortion divide obscures the more complex, incremental nature of the case.

CWR: How do you regard the Texas Heartbeat Act?

Maffucci: Not speaking for the *Review*, which does not take any editorial positions *per se* on debates within the pro-life movement, I personally have conflicting views about the Texas Heartbeat Act. On the one hand, I am absolutely grateful that the humanity of unborn children in Texas is recognized by law, and that, so far at least, babies' lives are being saved every day! That cannot be overstated. I also celebrate the states' rights aspect of it—something the *Roe* vs. *Wade* decision, and so many other court decisions, have unjustly preempted.

On the other hand, I worry that, as a broad strategy, Americans are not ready for this and we may lose support for the discussion I have been hoping would take place in advance of the *Dobbs* vs. *Jackson* Supreme Court case. I am hoping for a broad discussion about the rights of the unborn at 15 weeks—the point at which the Mississippi law would protect—and the artificial construct of fetal “viability.” It is a fact that most Americans are uncomfortable with abortions after the first trimester, and so there ought to be a groundswell of agreement if people are properly educated about what *Roe* actually allows. I am hoping the mushy middle can be persuaded—and I fear that the brouhaha and misinformation about the Texas law may foil that opportunity.

In the *Review*'s pages, we have had many debates among pro-lifers, between those who support an incremental approach, and those who insist on a more uncompromising “no exceptions” approach. I can see both sides, though I am always in favor of whatever legislation can save actual lives. After all, lives are saved one at a time, so we ought to support any legislation that accomplishes that.

The current situation, however, is rather confusing. Is the Texas law incremental? Yes, it's saving actual lives, now, so it ought to be supported. But if it hurts the movement as a whole—ultimately saving fewer lives in the long run, is support for the bill support for the “no exceptions” side? I honestly don't know. I don't have a crystal ball for what the Texas bill might cause in the way of unintended consequences. I do believe that the legal challenge that the federal government has mounted against it is not persuasive.

I must say that I also find the nature of the bill concerning—that private citizens can report abortions and sue providers. Of course, I can admire it as a crafty legal ploy to get around the court injunctions that stymie so many state efforts to curb abortion, but I am also wary of the Act giving great press and emotional weaponry to the enemies of life. Yes, women themselves cannot be prosecuted, and any citizen who wishes to sue against an illegal abortion must be prepared to initiate a criminal suit and lay out the initial legal costs for such a suit. Still, if it is true that someone can be sued for driving a woman to an abortion clinic, even if they didn't know they were doing so, that seems

unjust and also precisely the sort of tactic that could be used against proliferers in any state hostile to our pro-life cause.

So, again, I am ambivalent about the Texas Heartbeat Act.

CWR: How do you think this will affect *Dobbs* vs. *Jackson*? Do you see this as a domino in any foreseeable way?

Maffucci: Not necessarily: the Supreme Court's decision not to halt the Texas law was based on the nature of the reporting in the law, so it doesn't really give us a sign about *Dobbs*. And the fact that Justice Roberts dissented from the Court's decision does not augur well.

CWR: The editors of *National Review* express doubts about the advisability of the "private-enforcement mechanism" of the Act as far as providing a model for future legal challenges to *Roe* and *Casey*. Do you agree?

Maffucci: Yes. It could boomerang. I am not saying it will boomerang. But it might.

CWR: However, do you see the Texas heartbeat law as a positive turning point for the pro-life movement?

Maffucci: Even with my reservations, I will say, Yes. As my father, James McFadden often said, the worst thing that could happen to the abortion issue in America is if the issue "went away," was simply accepted—as, unfortunately, it has been in much of Western Europe. God bless America: that sure isn't happening here. And I hope that when we debate heartbeat laws the average citizen will wake up to the reality of the life of the unborn.

One could get brainwashed in the major media by the constant euphemisms and outright lies spun to hide the beautiful reality of fetal development—an egregious example of which is the *New York Times* reporting that the heartbeat referenced in proposed heartbeat bills is not a "fetal heartbeat" but an "embryonic cardiac activity of the fetal pole," which is euphemism of an almost gymnastic cynicism. Now, with the Texas Act being debated throughout the country, and in the pages of the *Human Life Review*, the truth of an unborn baby's heartbeat is abundantly accessible to anyone willing to open their eyes to see—or, as the case may be, their ears to hear.

CWR: Anne Conlon, the Editor of the *Human Life Review*, made an important point about the publication — that the pieces you run tend to take the long view of the struggle for life. You are not a "news" publication *per se*, but a reflective journal designed to showcase writers who see the various issues that arise within the movement like the Texas Act and *Dobbs* vs. *Jackson* in a larger light. A wonderful pro-life voice who exemplifies your more thoughtful approach to pro-life issues is your old boss, with whom you worked when he was editor of *First Things*, Father Richard John Neuhaus. Who can forget the speech he gave at the close of the 2008 convention of the National Right to Life Committee?

"We do not know, we do not need to know, how the battle for the dignity of the human person will be resolved," Father Neuhaus told his auditors. "God knows, and that is enough. As Mother Teresa of Calcutta and saints beyond numbering have taught us, our task is not to be successful but to be faithful. Yet in that faithfulness is the lively

hope of success. We are the stronger because we are unburdened by delusions. We know that in a sinful world, far short of the promised Kingdom of God, there will always be great evils. The principalities and powers will continue to rage, but they will not prevail. In the midst of the encroaching darkness of the culture of death, we have heard the voice of him who said, ‘In the world you will have trouble. But fear not, I have overcome the world.’ Because he has overcome, we shall overcome. We do not know when; we do not know how. God knows, and that is enough. We know the justice of our cause, we trust in the faithfulness of his promise, and therefore we shall not weary, we shall not rest.”

Maffucci: Yes, Father Neuhaus was quite a boss! A bigger-than-life, brilliant boss. And I am pleased to see that you consider his great speech—what Prof. Robert George of Princeton regarded as the single greatest pro-life speech ever given—emblematic of our approach at the *Human Life Review*. Of course, we pay close attention to the *minutiae* of pro-life issues as they emerge but we never take our eyes off the big picture—the picture Father Neuhaus captured so unforgettably.

But I would reference another example of the sort of approach to the debate over abortion that we highlight in our pages, and it comes from one of our very best contributors, Hadley Arkes, the Edward N. Ney Professor of Jurisprudence and American Institutions *emeritus* at Amherst College and the founder and director of the James Wilson Institute on Natural Rights & the American Founding, who has this to say about *Dobbs v. Jackson* in the current Summer issue of the *Human Life Review*:

The case for the Act does not depend . . . on some dramatic new revelation about the nature of that child in the womb. What the sponsors will cling to more firmly is the plea that a limit of 15 weeks stands a better chance of sparing the fetus from excruciating pain; the pain of being poisoned or dismembered. That concern for the pain suffered by the child was most notably raised in the mid-80s in a penetrating essay in the *Human Life Review* (“Pain in the Unborn,” Winter 1981) by our late friend, professor and federal judge John Noonan. The piece was relayed to President Reagan, who then mentioned the matter in a State of the Union Address that caught the attention of the public. Hearings were held on fetal pain in the Senate Committee on the Judiciary. In those hearings, my late dear friend Daniel Robinson refuted the claim of one of the pro-choice doctors that a fetus cannot feel pain at 12 weeks. Doctors on the other side testified that fetuses were not as likely to feel pain because their cerebral cortices were not well developed. Robinson pointed out that “‘the anatomy of pain’ throughout the animal kingdom . . . does not seem to avail itself of any specific region of the cerebral cortex.” He recalled cases of brain cancer where it was necessary to remove as much as half of the cerebral cortex, and yet the patients did not lose their sensation of pain. The reaction to pain, he said, is reflexive; it depends on instant recognitions “for which the cerebral cortex may be utterly unnecessary.” And “when our hand touches a red-hot object we do not engage in syllogistic modes of deliberation in search of an appropriate response.”

But then he quickly brought matters down to solid ground by asking,

What difference would it make? If the human fetus is regarded as a human being deserving of our solicitude, then we surely would oppose its death even if pain were not involved. After all, what is wrongful in abortion is the taking of a human life and this

remains wrongful even if painless methods were developed and adopted.

As everyone understood, the concern to avoid pain to the child in the womb could be met by simply requiring anesthesia. The right of the woman to the abortion would then remain unimpaired. But that was not a counterclaim that defenders of abortion were eager to make, for it simply brought home again the jarring fact that what was being extinguished was a human life. And this was the understanding that had been at work among proliferers for years as they pressed to bar at least late-term abortions, or abortions based on the sex or race of the child. The proliferers have never thought that the onset of pain marked the arrival of the fetus to a human standing. And neither could they have possibly thought that the beating of the heart marked the beginning of life. The beating heart was just another manifestation of an already living being that was powering and integrating the features of its own growth. Rather, these proposals by proliferers over the years have been put forth in the hope of drawing the public into the recognition that what was being killed in these surgeries was a child who has never been anything but human from its first moments, drawing on the genetic pool of the two people who conceived him. The immanent risk in this approach was that a large segment of the public could indeed come to think that any of these moments in development actually marked the emergence of a truly human life—or a human life that was now worthy of being protected.

By any chalk, this is great critical thinking on a matter that could not be of more urgent importance to the very lifeblood of our civilization, and we are proud to have been able to publish it in the *Human Life Review*. God bless Hadley!

CWR: If the piece by Prof. Arkes gives readers a good sample of the character of the pieces you run in *Human Life Review*, can you share with our readers the range of your articles?

Maffucci: The *Review* covers in-depth, in our pages and on our website, the multiple life issues at the forefront of society due to the pandemic, from the mask-wearing wars to nursing home and group home deaths to the ethics of the vaccines to Wesley Smith's wonderful new article, in which he warns that "the Covid pandemic unleashed a soft totalitarianism in healthcare policy and bioethical advocacy that may not abate with the decline in infections."

The *Review's* website features—most of which are free—are timely, well-argued and well-written. We have weekly blogs (which are often actually mini-masterpieces); and we have recently added new features: My column, *Insisting on Life*, in which a guest or I share news or commentary and *Pastoral Reflections*, in which each week a member of clergy (so far Roman Catholic or Protestant) meditates on abortion and other grave moral transgressions that not only hurt individuals but deform the culture and threaten religious liberty.

Our plan for Fall 2021 is to initiate an online news section, where trusted writers can analyze and discuss a couple of prolife news stories each week—straight facts from a prolife source, though, as Anne Conlon rightly pointed out, our approach to the "news" will be reflective, rather than simply reactive. And we will feature judicious critical thinking rather than controversy for the sake of controversy.

In addition to our editorial content, we have excellent events, the greatest being our annual Great Defender of Life Dinner, though we also have many smaller events with

expert speakers, film showings, and book signings. All of our events create a great and necessary sense of community for prolife readers, thinkers, and activists, which is essential for changing hearts and minds and shoring up and rededicating the committed.

Lastly, we have a truly distinguished history, recorded in both our archives (fully available online with a subscription) and in our story itself, spanning as it does the founding of the journal by my father, and the brilliant authors we have published and conspired with over the years, including such luminaries as Ronald Reagan, Malcolm Muggeridge, Henry Hyde, and Clare Boothe Luce. Our tradition of excellent pro-life coverage continues with the work we showcase from such present-day stars as Helen Alvaré, Wesley Smith and William Murchison. Our history can also be seen in how a small but indomitable non-profit in New York City has lived through and persevered through so many financial and other crises. In that sense, we are a true microcosm of the pro-life movement, adaptive, unflagging, and committed to the core!

CWR: Any concluding thoughts? The pro-life movement is always in flux; our opponents, after all, are tireless in trying to upend the defense of life; but what do you see as the most important thing to keep in mind as we fare forward to persuade our compatriots to join us in this good, this fundament fight?

Maffucci: What I see as the bottom line—no matter what laws are passed—is this: the prolife movement has to step up to the plate in the culture and stand for actual women and children at risk. Even if *Roe* is overturned, we know that some states will immediately legalize abortion, hence the struggles will continue. In the meantime, every day, there are women who need help not to choose abortion. Each one of us can do something to help these women, whether by supporting or volunteering at our local pregnancy centers, working to enact policies that enable women *as mothers* to be successful in business and society, and convincing our churches to step up!

When is the last time you heard a sermon—if you ever heard one—about unexpected pregnancy and how a family and community can help? As my friend Amy Ford, who is President of Embrace Grace—an evangelical organization in Texas that encourages churches to minister to women with unplanned pregnancies—shared recently on social media:

“Churches: What are you doing to help women with unexpected pregnancies practically? What are you doing to help women with unexpected pregnancies emotionally? What are you doing to help women with unexpected pregnancies spiritually?”

If you don’t have an answer for all three of the questions above, you’re not ready . . . you better get ready. Your time will soon be up.”

APPENDIX B

[Edward Mechmann is an attorney and Director of Public Policy for the Archdiocese of New York. The following is reprinted with permission from his public policy blog “Stepping Out of the Boat” (October, 25, 2021).]

The Texas Abortion Law Reaches the Supreme Court

Edward Mechmann

The Texas heartbeat law continues to generate controversy, legal battles, and a lot of confusion. Last week, the Supreme Court agreed to take up two separate cases about the law. That’s an important development, but anything that happens in these cases is going to have only a limited impact on legalized abortion.

So to keep this all in context, it’s worth an explanation of these Texas cases. A Reader Advisory Warning: the legal issues here are complicated and difficult to understand, even for lawyers. I’ll try my best to make them understandable to normal people.

What’s the Texas Law All About?

I’ve explained the Texas law (called “Senate Bill 8”, or “SB 8”) elsewhere, but here’s a short summary. It bans any abortion if a fetal heartbeat has been detected. An ultrasound can typically detect a fetal heartbeat at approximately six weeks of pregnancy, so that’s a very significant limitation—an estimated 85 or 90% of abortions take place after that time.

SB 8 doesn’t apply to the mother herself, but it would penalize anyone who performs or induces a prohibited abortion, and also anyone who “knowingly” “aids or abets” the performance or inducement of a prohibited abortion, and even anyone who “intends” to perform or aid a prohibited abortion.

It is usually up to government agencies, like local district attorneys, health departments, or medical boards, to have the authority to enforce abortion laws. Instead, SB 8 empowers any person to file a private lawsuit against anyone who violates the law or “intends” to do so. This means that potential defendants can’t possibly know if or when they may be the subject of a lawsuit, and where it will come from.

The goal of the law, of course, was to essentially ban abortion in the State of Texas. And since the law clearly violates the legal standards for abortion laws from *Roe v. Wade* and *Planned Parenthood v. Casey*, it was designed as a vehicle to attack those decisions.

What are These Two Cases All About?

As mentioned above, there are two cases that got to the Supreme Court and will be treated together. The first was filed by an abortion clinic (*Whole Woman’s Health v. Jackson*). The second was filed by the U.S. Justice Department (*United States v. Texas*). Both cases seek to have a court declare the law unconstitutional.

But the crucial issue in both cases is actually procedural—whether the plaintiffs can

properly sue the defendants and whether a court can issue an order preventing anyone from enforcing the statute.

Let's take a step back for a second and explain a bit of legal procedure. In general, to bring a lawsuit you have to file in a court with jurisdiction over the subject and the defendant, state a valid legal claim that you were personally injured by that defendant, and ask for relief that the court can give. These basic requirements have fancy legal names like "standing", "jurisdiction", and "justiciability". But they are all required under the fundamental right to due process of the law.

The point is that a court is not a general problem solver or a debate club. Courts can't make general statements about the validity of laws. A court can only act when the injured parties and the person who allegedly caused the injury are sitting before it, and it has the legal authority to grant some kind of remedy. Unless these conditions are satisfied, a court can't even consider the merits of the case.

These legal principles create a series of problems for the abortion clinic case. Since the government of Texas can't enforce the law, there's no reason to have them in court, and there's nothing the court can order them to do or refrain from doing. In a sense, the government of Texas is just an innocent bystander. And since any private party can enforce the law, there's no way to bring every possible defendant into the court. A judge can't issue an order to everyone in the world who may or may not decide to enforce the law.

The Justice Department case also has problems. It's hard to see how SB 8 harms the federal government, which obviously can't get an abortion. They also have the same problem as the abortion clinic when it comes to finding a proper defendant and remedy. The State of Texas can't enforce the law so no court order can have any effect on them. The Justice Department tried to sue "private parties who would bring suit under SB 8", but that's absurd—you can't sue an unidentified person based on mere speculation that they may act in the future.

So What's Going on in the Supreme Court?

The abortion clinic case went up to the Supreme Court already, seeking an order putting the law on hold pending further litigation in the lower courts. The Supreme Court denied the request, stating that the procedural issues were so complex that the case needed to be litigated further in the lower courts. The Justice Department convinced a lower court judge to declare the law unconstitutional and put it on hold. But the state appealed and the intermediate appellate court let the law go into effect pending further litigation.

Both the abortion clinic and the Justice Department then asked the Supreme Court to act, and last week, the Court agreed to take up both cases. This caused a great deal of excitement on both sides of the abortion issue.

But the Court defined the issues that it will consider in a very narrow way. In the Justice Department case, the court will consider whether the federal government has the right to sue in federal court to block the law's enforcement. And in the case brought by the abortion clinic, the court will assess whether it is legitimate for the law to delegate enforcement to private individuals.

The Court set an accelerated schedule, with oral argument on November 1. It also let the law continue to be in effect pending its decision.

It's not completely clear, but the way the Court defined the issues suggests that they will not directly decide whether SB 8 violates the alleged constitutional right to an abortion. That decision is going to be made in the other blockbuster abortion case on the Court's calendar, *Dobbs v. Jackson Women's Health Organization*, which will be argued in December and decided in the spring.

My Conclusion

Even a purely procedural decision in these Texas cases will be very significant.

I have major reservations about the Texas law. I'm afraid that this law will be seen by the Supreme Court as being disrespectful to the rule of law. Courts don't like it when people try to sidestep or circumvent their authority. That could have a negative effect on how the Court will rule in the *Dobbs* case. There's also the danger that this kind of law will be turned against us. Imagine if a statute were to give anyone in the country the ability to sue the Church over our refusal to recognize same-sex "marriages" or gender ideology, or to refer women for abortions. I could easily see the New York State Legislature passing such a law.

I'm also concerned about a court granting the federal government wide latitude to bring lawsuits to invalidate state statutes. Our constitutional system is based on principles of federalism, balance of powers, and checks and balances. The federal government was originally designed to have only limited authority. That authority has vastly expanded over the last century. But there has to be some limit or there's no point to having state and local governments any more.

One thing is very clear. Abortion continues to corrupt our law and politics. Nothing good can come of such an evil. It is well past time for our nation to wake up and see abortion for the monstrosity it is, and grant full legal protection for all human beings, including those in the womb of their mothers.

We intend to keep on keepin' on . . .



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“To view the field of battle we must understand how Left and Right have crisscrossed each other in recent years. Leftists, who once championed civil liberties, are now given to cancel-culturing opinions they don’t like, while many on the Right, in defending those opinions, are starting to sound like Clarence Darrow in 1925 defending the right to teach evolution. Defending liberty can be a noble profession, but those who practice it should always be prepared to answer the question we have posed more than once in this essay: Liberty to do *what*? Liberty to bring all souls to Heaven? Liberty to smoke marijuana? Liberty to refuse a vaccination?”

—George McKenna, “The Odd Couple: Freedom and Liberty”