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Symposium
Can the Seamless Garment Be Sewn?
The Future of Pro-Life Progressivism

Foreword

Pro-Life Progressivism and the Fourth Option in American Public Life 235
Thomas C. Berg

Keynote Address

Prophetic Politics: A New Option 246
Rev. Jim Wallis

Articles

Panel: Perspectives on Pro-Life Progressivism

The Consistent Life Ethic: A Look Back, A Look Around, A Look Ahead 256
John L. Carr

The Consistent Ethic of Life 272
Sidney Callahan

Unraveling the "Seamless Garment": Loose Threads in Pro-Life Progressivism 294
Susan Frelich Appleton

Another Social Justice Tradition: Catholic Conservatives 308
Kevin E. Schmiesing

Panel: Pro-Life Progressivism in Law and Policy

The Consistent Ethic of Life: A Proposal for Improving Its Legislative Grasp 326
Helen M. Alvaré

Sacred Monkeys and Seamless Garments: Catholics and Political Engagement 352
John P. O'Callaghan

Can the Seamless Garment Be Sewn? The Future of Pro-Life Progressivism 375
Kevin Doyle

Panel: The Political Future of Pro-Life Progressivism

The Coherence and Importance of Pro-Life Progressivism 384
Mark A. Sargent

American Catholics and the Structure of Life Attitudes 397
Ted G. Jelen

CLOSING ADDRESS

Faith and Values in the Public Arena: An American Catholic in Public Life 421
James L. Oberstar, M.C.

FOREWORD

PRO-LIFE PROGRESSIVISM AND THE FOURTH OPTION IN AMERICAN PUBLIC LIFE

THOMAS C. BERG*

I.

The first premise of this symposium is that there is a body of moral-political thought in contemporary America that can be called "Pro-Life Progressivism." This outlook combines opposition to abortion and euthanasia with a number of positions typically deemed "progressive" or leftward-leaning, such as support for strong anti-discrimination laws, strong anti-poverty programs with governmental involvement, strong environmental protection, skepticism about the use of American military force, and concern for the rights and dignity of those accused and convicted of crimes.

There are actually Americans who hold this combination of positions. That point may require emphasis, because in political debate today the two descriptors "pro-life" and "progressive" are typically seen as opposites, and their combination an oxymoron. Those who are against abortion and euthanasia are "conservatives," and their opponents, the progressives, emphasize the other issues above.

But the rough combination of views above can be found in a few different movements in America today: a few streams that can serve as sources for a broader political river of pro-life progressivism. The first source, and the major focus of this symposium, is the social justice tradition of the Catholic Church. At various times and places, the Catholic moral-political tradition in America has inspired people to strenuously oppose the taking of human life not only in cases of abortion but also in cases of war—or at least war not justified as a strict necessity for defending others' lives.[1] The Catholic tradition has also led people to oppose the death penalty as unnecessary

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1. On Catholic peace movements, see e.g. in this symposium, Sidney Callahan, *The Consistent Ethic of Life*, 2 U. St. Thomas L.J. 272, 284-85 (2005). On the development of Catholic just-

killing, a position given impetus by Pope John Paul II in his encyclical *Evangelium Vitae* (*The Gospel of Life*) and in his appeals to American officials to commute executions here.[2] And the tradition has led people to support various other progressive causes, such as anti-poverty programs, environmental-protection measures, and workers' rights, in the name of promoting human dignity and preventing indirect threats to human life.

In a series of speeches in the 1980s, Joseph Cardinal Bernardin drew together the Church's positions on various issues into what he called "a comprehensive and consistent ethic of life."[3] He emphasized the link between these positions with the metaphor of the "seamless garment," referring to the robe that Jesus wore to his crucifixion and that the Roman soldiers cast lots for rather than tearing up to divide among themselves.[4] As befits a symposium at a Catholic law school, many of the contributors to this symposium wrestle with the idea of a consistent ethic of life, critically as well as appreciatively. And the seamless garment metaphor, operating in Professor Sidney Callahan's words as a "framing" device for thought and action,[5] serves in our title to indicate the symposium's focus on whether the cluster of positions reflected in pro-life progressivism and the consistent-life ethic have intellectual coherence and any prospects for political success: "Can the seamless garment be sewn?"[6]

A quarter century ago, one pro-life progressive writer and activist described the linkage between these issues:

> Some of us who went through the anti-war struggles of the 1960s and 1970s are now active in the right-to-life movement. We do not enjoy opposing our old friends on the abortion issue, but we feel that we have no choice. We are moved by what pro-life feminists call the "consistency thing"—the belief that respect for human life demands opposition to abortion, capital punishment, euthanasia, and war . . . . It is out of character for the left to neglect the weak and helpless. The traditional mark of the left has been its protection of the underdog, the weak, and the poor . . . . The unborn child is the most helpless form of humanity, even

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war conscientious objections, see e.g. Charles J. Reid, Jr., *John T. Noonan, Jr., On the Catholic Conscience and War:* Negre v. Larsen, 76 Notre Dame L. Rev. 881, 884-91, 904-24 (2001).

2. Pope John Paul II, *Evangelium Vitae (The Gospel of Life): The Encyclical Letter on Abortion, Euthanasia, and the Death Penalty in Today's World* 96, 100 (Random H. 1995) (arguing that because of the "positive attitude of absolute respect for life," "even [the lives] of criminals and unjust aggressors," the death penalty ought to be limited to "cases of absolute necessity . . . when it would not be possible otherwise to defend society," which "are very rare, if not practically non-existent"); *see also* Thomas C. Berg, *Religious Conservatives and the Death Penalty*, 9 Wm. & Mary Bill Rights J. 31, 41-43 (2000).

3. Joseph Cardinal Bernardin, *Consistent Ethic of Life* 2 (Sheed & Ward 1987).

4. Callahan, *supra* n. 1, at 277.

5. *Id.* at 276.

6. As my colleague Jennifer Wright pointed out, since sewing requires seams, a more accurate title would be "Can the seamless garment be woven?" We have nevertheless kept the more euphonious "sewn."

> more in need of protection than the poor tenant farmer or the mental patient.[7]

As this quote suggests, a second source of pro-life progressivism may be found in the pro-life feminism represented most notably by the organization Feminists for Life of America, which describes itself as "pro-woman, pro-life."[8] Pro-life feminists emphasize that women are often pushed into having abortions, not just by direct personal pressure but also by circumstances such as lack of available child care, the prospect of losing a job because of pregnancy, and so forth. Pro-life feminism therefore sees abortion as "a reflection that our society has failed to meet the needs of women," and it aims at "systematically eliminating the root causes that drive women to abortion—primarily lack of practical resources and support—through holistic, woman-centered solutions."[9] Pro-life feminism traces similar views in the writings of founders of American feminism such as Susan B. Anthony and Elizabeth Cady Stanton.[10] Moreover, seeing abortion as a form of violence, pro-life feminism overlaps and sometimes specifically supports non-violence positions on other issues as well.[11] Of course, all of these pro-life feminist assertions are controversial, as Professor Susan Appleton's critical article in this symposium reflects.[12]

A third source of pro-life progressivism comes from left-wing voices among evangelical Protestants, including the symposium's keynote speaker, the Rev. Jim Wallis.[13] While evangelicals tend to be viewed as across-the-board political conservatives, many hold liberal positions on particular questions, and a small group could be considered left-wing on most issues except abortion and sexual morality. A prime exhibit is Wallis, who is the founder of Sojourners, a group located in inner-city Washington DC that publishes materials both on "peace and justice" activity and on spiritual growth and discipline.[14] Wallis also founded Call to Renewal, an ecumenical "faith-based movement to overcome poverty,"[15] and has written several

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7. Mary Meehan, *Abortion: The Left Has Betrayed the Sanctity of Life*, 44 The Progressive 32 (Sept. 1980) (available at http://www.swiss.ai.mit.edu/~rauch/nvp/consistent/meehan_progressive.html).

8. Feminists for Life of America, *Join Feminists for Life*, http://www.feministsforlife.org/who/joinus.htm (accessed Oct. 8, 2005).

9. *Id.*

10. *See* Feminists for Life of America, *Feminist History*, http://www.feministsforlife.org/history/index.htm (accessed Oct. 8, 2005).

11. *See* Callahan, *supra* n. 1, at 285-87.

12. Susan Frelich Appleton, *Unraveling the "Seamless Garment": Loose Threads in Pro-Life Progressivism*, 2 U. St. Thomas L.J. 295 (2005).

13. Jim Wallis, Address, *Prophetic Politics: A New Option* (U. St. Thomas L. Sch., Minneapolis, Minn., Mar. 11, 2005), in 2 U. St. Thomas L.J. 246 (2005) [hereinafter Wallis, *Seamless Garment*].

14. Sojourners, *Sojourners: Christians for Justice and Peace*, http://www.sojo.net (accessed Oct. 8, 2005).

15. Call to Renewal, *Call to Renewal: People of Faith Overcoming Poverty*, http://www.calltorenewal.com (accessed Oct. 8, 2005).

books, including the latest, *God's Politics: Why the Right Gets It Wrong and the Left Doesn't Get It*,[16] from which his symposium address is largely drawn. Wallis's article reflects several of the themes distinctive to Protestant evangelicals: an emphasis on the many Bible passages that condemn injustice against the poor,[17] and on the need to combat poverty by changing both the personal behavior of individuals and the dynamics of social and economic structures.[18] Other evangelicals such as Ron Sider and Tony Campolo have made similar contributions in setting forth a "completely pro-life" position[19] and in promoting the use of faith-based organizations, with government assistance, to lift up the poor by combining economic assistance with personal transformation.[20]

To these three groups—Catholic social-justice proponents, pro-life feminists, and politically liberal evangelicals—one could add other voices such as columnist Nat Hentoff, self-described "Jewish, atheist, civil libertarian, left-wing pro-lifer."[21] But despite this assortment of voices, the term "pro-life progressivism" remains strange, even inconsistent, to many people. This strangeness suggests the second premise of the symposium: the pro-life progressive outlook currently faces daunting challenges both intellectual and political.

Beginning with the political: As Jim Wallis details in his address, American politics today offers three fundamental options, none of which encompasses the pro-life progressive combination of positions.[22] If you are "conservative at everything, from cultural, moral, and family concerns to economic, environmental, and foreign policy issues," you can vote Republican. If you are "liberal" across this broad range of issues, you can vote Democratic (or Green in Minnesota and a few other states). If your views cut across liberal-conservative lines, you nevertheless have a political option if you are liberal on cultural and moral issues and conservative on economic and foreign policy: this makes you consistently "laissez-faire," as

16. Jim Wallis, *God's Politics: Why the Right Gets It Wrong and the Left Doesn't Get It* (HarpersSanFrancisco 2005) [hereinafter Wallis, *God's Politics*].

17. Wallis, *Seamless Garment*, *supra* n. 13, at 252 ("I insist, as an evangelical Christian, that when there are thousands of verses in the Bible about the poor—I can't ignore them."). For compilations of such passages, see *Cry Justice! The Bible on Hunger and Poverty* (Ronald J. Sider ed., InterVarsity Press 1980).

18. Wallis, *Seamless Garment*, *supra* n. 13, at 252 ("There are choices, behaviors, breakdowns in the relationships that cause an entrenched poverty, and there are structures, policies, decisions, and choices that make escape from poverty impossible.").

19. Ronald J. Sider, *Completely Pro-Life: Building a Consistent Stance* (InterVarsity Press 1987).

20. *See e.g.* Tony Campolo, *Revolution and Renewal: How Churches Are Saving Our Cities* (Westminster John Knox Press 2000); Ronald J. Sider & Heidi Rolland Unruh, *Evangelism and Church-State Partnerships*, 43 J. Church & State 267 (2001).

21. Nat Hentoff, *Pro-Choice Bigots*, 27 The New Republic 21 (Nov. 30, 1992) (available at http://prolife.liberals.com/articles/hentoff.html).

22. Wallis, *Seamless Garment*, *supra* n. 13, at 250. Further quotes in this paragraph of text come from the same paragraph in Wallis's article.

Wallis says, and you can vote Libertarian. Although your third-party vote may be practically ineffective, you at least have a party to vote for in presidential elections and in several states. But if you hold what are commonly called conservative positions on family and sexual matters—most notably abortion—and yet are liberal, progressive, or even "radical" on economic or foreign-policy matters, then you must have serious reservations about both major political parties. Nor has a minor party arisen to express this fourth option, the pro-life progressive political outlook.

Consider this list of issues set forth by a leading evangelical Christian scholar explaining why he could not vote for either major-party presidential candidate in 2004:

> Seven issues seem to me to be paramount at the national level: race, the value of life, [progressive] taxes, [free] trade, [availability and affordability of] medicine, religious freedom[,] and [adherence by America to] the international rule of law. In my mind, each of these issues has a strong moral dimension. My position on each is related to how I understand the traditional Christian faith that grounds my existence. Yet neither of the major parties is making a serious effort to consider this particular combination of concerns or even anything remotely resembling it . . . .
>
> [A]s long as I hold these positions, I am a citizen without a political home.[23]

The political tension became especially acute for many American Catholics in the 2004 election. Several bishops indicated their intent to refuse communion to Catholic public officials who voted for abortion rights,[24] and at least three bishops even suggested that no faithful Catholic could vote for any candidate who favored abortion rights, no matter what the candidate's (and his opponent's) positions on any other issues.[25] A

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23. Mark A. Noll, *None of the Above: Why I Won't Be Voting for President*, 121 The Christian Century 8 (Sept. 21, 2004) (available at http://www.findarticles.com/p/articles/mi_m1058/is_19_121/ai_n6355192/pg_2).

24. *See e.g.* Gregory C. Sisk & Charles J. Reid, Jr., *Abortion, Bishops, Eucharist, and Politicians: A Question of Communion*, 43 Catholic Law. 255 (2004) (cataloging and defending these statements).

25. *See* Raymond L. Burke, *A Pastoral Letter, On Our Civic Responsibility for the Common Good* (2004) (available at http://www.priestsforlife.org/magisterium/bishops/04-10-01burke.pdf) ("[T]here is no element of the common good, no morally good practice, that a candidate may promote and to which a voter may be dedicated, which could justify voting for a candidate who also endorses and supports the deliberate killing of the innocent, abortion, embryonic stem-cell research, euthanasia, human cloning or the recognition of a same-sex relationship as legal marriage."); Michael H. Sheridan, *A Pastoral Letter to the Catholic Faithful of the Diocese of Colorado Springs on the Duties of Catholic Politicians and Voters* (May 1, 2004) (available at http://www.priestsforlife.org/magisterium/bishops/sheridanmay2004.pdf) ("Any Catholic politicians who advocate for abortion, for illicit stem cell research or for any form of euthanasia *ipso facto* place themselves outside full communion with the Church and so jeopardize their salvation. Any Catholics who vote for candidates who stand for abortion, illicit stem cell research or euthanasia suffer the same fateful consequences. It is for this reason that these Catholics, whether candidates for office or those who would vote for them, may not receive Holy Communion until they have

number of people replied that pro-life Catholics should not in good conscience vote for a president who had initiated a preemptive war in Iraq in the face of fairly clear (although discreetly expressed) opposition from Pope John Paul II and other Catholic leaders.[26]

Some Catholic leaders and commentators argued that the destruction of pre-born life through abortion and embryonic stem-cell research overrode all other political issues, making a vote for the strongly pro-choice John Kerry morally dubious.[27] Others countered with the "consistent ethic of life" argument: that the Catholic moral tradition emphasizes the protection of human life and dignity in all contexts, including matters such as the death penalty and war and peace, where conservative positions reflect too great a willingness to take life.[28] Such a response, however, is precisely what worries some Catholic thinkers about the "seamless garment" approach: that by treating a whole range of issues as fundamental, it will distract attention from the unique taking of innocent human life involved in abortion and become, in the words of our symposium contributor John O'Callaghan, "little more than a screen behind which abhorrent policies, particularly pro-abortion policies, can hide."[29] O'Callaghan's symposium paper emphasizes the difference in Catholic moral theory between acts, such as torture or abortion, that are wrong intrinsically or in all circumstances and acts, such as war and capital punishment, that are wrong only in some (even if many) circumstances, the determination of which depends on prudential judgments by proper authorities.[30]

The debate about the relative importance and status of various moral-political issues runs through several contributions to this symposium. But it is debate that takes as a given the existing options in American politics, and then asks which option is more morally acceptable (or less unacceptable). It does not consider the possibility of a new option, either inside or outside the current political parties.

After losing the 2004 election, Democrats engaged in a post-mortem about, among other things, the party's strong abortion-rights stance.[31] Leading voices such as Hillary Clinton spoke of abortions as a tragedy and of the need to reduce them while keeping abortion legal. Democrats for

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recanted their positions and been reconciled with God and the Church in the Sacrament of Penance.").

26. *See e.g.* Thomas J. Gumbleton, *President's Policies Are in Opposition to a Culture of Life*, Detroit Free Press (Oct. 20, 2004); Sidney Callahan, *A Pro-Life Case against Bush: It's About More than Abortion*, 131 Commonweal 15 (June 4, 2004).

27. *See e.g. supra* nn. 24-25.

28. *See e.g. supra* n. 26.

29. John P. O'Callaghan, *Sacred Monkeys and Seamless Garments: Catholics and Political Engagement*, 2 U. St. Thomas L.J. 355, 357 (2005).

30. *Id.* at 364-67.

31. *See e.g.* Alexander Bolton, *Democrats Seek Nuance on Abortion*, The Hill (July 26, 2005) (available at http://www.thehill.com/thehill/export/TheHill/News/Frontpage/072605/democrats.html).

Life of America, a small policy and lobbying organization that had generally been shunned by the national party machinery, developed a package of measures to reduce abortions ninety-five percent over the next ten years.[32] The proposed "95-10 Initiative" would rely primarily not on measures to restrict abortion, but on measures to assist pregnant women and young mothers with child-bearing and -raising, to encourage alternatives to abortion such as adoption, and to avoid unwanted pregnancies in the first place. The package includes increased funding for children's nutrition and health care, domestic-violence shelters, and college abortion-counseling day-care centers (based on statistics showing that one out of five abortions are performed on college women); tighter restrictions against health insurers treating pregnancy as a "pre-existing condition," which pressures pregnant women by making it hard for them to change jobs; tax credits and a national adoption referral system to encourage adoption as an alternative to abortion; and (initially) a requirement that employers providing health insurance include contraceptives approved by the Food and Drug Administration.[33] As Professor Appleton's symposium article indicates, some of these proposals could enjoy support from pro-choice advocates.[34]

The introduction of the 95-10 initiative in Congress was delayed several weeks in late 2005 by, among other things, the emergencies arising out of Hurricane Katrina. That delay symbolizes a broader point. America has a host of pressing social needs that appear to require, among other things, a commitment of money—needs that include reconstructing the Gulf and addressing the conditions of poverty that made so many residents of New Orleans especially vulnerable to the hurricane's aftermath. The approach of Democrats for Life to reducing abortions reflects the general tenor of political progressivism to address social needs through a commitment of social resources. But progressives in general already fight an uphill battle in getting the government to commit these resources. Adding "pro-life" to the progressive agenda—to seek to reduce abortions through a commitment of social resources, rather than solely or predominantly through restrictions on abortion—adds another set of demands to an already crowded docket. As Dean Mark Sargent puts it in his symposium paper, the question is whether pro-life progressivism can achieve more than just minor adjustments in one party or the other, adjustments that are likely to be "ephemeral and vulnerable to political expediency."[35]

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32. Democrats for Life, *Democrats for Life Introduce the 95-10 Initiative*, http://www.democratsforlife.org/index.php?option=com_content&task=view&id=48&Itemid=45 (accessed Oct. 18, 2005).

33. *Id.*

34. Appleton, *supra* n. 12, at 296-97.

35. Mark Sargent, *The Coherence and Importance of Pro-Life Progressivism*, 2 U. St. Thomas L.J. 387, 397 (2005).

Thus, if pro-life progressivism or the consistent ethic of life are to become a fourth option in American law and politics, the moral and intellectual case for that approach must be compelling enough to motivate such commitments of social resources. Accordingly, several contributors to this symposium seek to explain the intellectual coherence of the approach and to sort out the relationships among its various emphases. Others raise criticisms from a variety of perspectives. Is pro-life progressivism a fresh and authentic combination of religious faith and social justice? Does it make appropriate distinctions between non-negotiable principles or goals and provisional, revisable means for achieving those goals? Can it affirm the role of the state in promoting social justice without simply recycling bureaucratic solutions that have proven flaws? Can it offer an agenda that is indeed "pro-woman" while also being "pro-life"?

The premise of this symposium is not that pro-life progressivism or the consistent ethic of life constitute *the* proper option for American law and politics today—only that this approach deserves a full hearing and has not yet received it. These articles bring the topic into the pages of legal scholarship for virtually the first time. We hope that they will set forth the pro-life progressive or consistent-life position, clarify questions concerning its meaning, and subject it to critical scrutiny as to both its intellectual coherence and its practical and political viability.

II.

The symposium papers are bookended by keynote addresses by two public figures. Jim Wallis, as already noted, reviews the three major political options in America today and calls for a fourth option that is "traditional, concerned with issues like family values, sexual integrity, and personal responsibility, while also being very progressive, even populist, even radical, on issues like poverty and racial justice."[36] Wallis looks beyond the immediate political obstacles to the "fourth option"; he argues that successful social movements like the civil rights movement "don't worry about politics, politicians, and elections," but rather "change politics, politicians, and elections."[37] Representative James Oberstar (D-MN), a leading pro-life liberal in Congress, closes the symposium by emphasizing, like Wallis, the passages in the Bible that emphasize concern for the poor. He quotes the Catholic bishops' statement that the American people must be "'judged in the light of what they do for the poor, what they do to the poor, and what they enable the poor to do for themselves.'" "These are the same

36. Wallis, *Seamless Garment*, *supra* n. 13, at 250.

37. *Id.* at 254.

bishops," Oberstar adds, "who call for an end to abortion and are roundly criticized for it."[38]

Between these exhortations are papers from the three symposium panels. The first panel, "Perspectives on Pro-Life Progressivism," includes two papers setting forth the pro-life progressive position and two papers challenging that position from the left and right. In their papers, John Carr of the U.S. Conference of Catholic Bishops and Professor Sidney Callahan, ethicist, psychologist, and a leading Catholic pro-life feminist, both lay out the basic principles of the consistent ethic of life.[39] Carr specifically addresses the relationship between life issues and other aspects of a pro-life progressive agenda; he argues that in the U.S. bishops' formulation, "life clearly comes first" because "[without it] nothing else is possible," but "without dignity, life is not truly human" and "[t]herefore, those things which make life truly human [such as] faith and family, work and education, a decent place to live, enough to eat, and access to health care, are not luxuries or optional benefits, but human rights integrally linked to the right to life itself."[40] Callahan traces the extent to which the consistent-life ethic has been accepted and "borne fruit" within the Catholic Church as a whole, not just among bishops, and assesses its prospects for affecting American culture.

The first critic of pro-life progressivism, leading feminist legal scholar Susan Appleton, argues that "if the 'pro-life' part of the project's name signals a commitment to overturn *Roe* [*v. Wade*] and impose restrictions on abortion, then . . . the 'progressive' part of the name is contradictory and disingenuous."[41] While Appleton agrees that economic and other obstacles to women choosing childbirth should be attacked, she argues that any restrictions on women's right to choose abortion "remain, necessarily and unavoidably, incompatible with progressives' asserted commitment to gender equality."[42]

From the other side, Kevin Schmiesing of the Acton Institute, a pro-free-markets think tank,[43] argues that economic progressivism, with its reliance on state intervention to ease poverty, is not the only approach consis-

38. James L. Oberstar, Address, *Faith and Values in the Public Arena: An American Catholic in Public Life* (U. St. Thomas L. Sch., Minneapolis, Minn., Mar. 11, 2005), in 2 U. St. Thomas L.J. 426, 428 (2005) (quoting U.S. Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy* (1986) (available at http://www.osjspm.org/cst/eja.htm)).

39. John L. Carr, *The Consistent Life Ethic: A Look Back, A Look Around, A Look Ahead*, 2 U. St. Thomas L.J. 256 (2005); Callahan, *supra* n. 1.

40. Carr, *supra* n. 39, at 262.

41. Appleton, *supra* n. 12, at 295-96.

42. *Id.* at 309.

43. *See* Acton Inst., *Acton Institute for the Study of Religion and Liberty*, http://www.acton.org (accessed Oct. 18, 2005).

tent with Catholic social teaching.[44] Schmiesing traces the development of pro-market thought among Catholics from the New Deal's opponents to today's neoconservatives such as Michael Novak. Citing Pope John Paul II's "critical appreciation" of capitalism in the 1991 encyclical *Centesimus Annus*, Schmiesing summarizes the concerns about "inordinate reliance" on state solutions for economic and social problems: the state may imperil human freedom and "vitiate the [private] institutions that most effectively promote the common good."[45] He concludes that differences between Catholic conservatives and progressives over economic and social policy "might be disagreements over means rather than ends" and there is a "possibility of meaningful dialogue" between them on the limits of market mechanisms on matters such as the family.[46]

The second panel, "Pro-Life Progressivism in Law and Policy," moves the discussion to a more specific level. Law professor Helen Alvaré, former spokesperson for the Catholic bishops on pro-life issues, assesses the practical and philosophical obstacles to the consistent-life ethic, including a divide between pro-life groups' emphasis on showing "the truth" about the full personhood of the unborn and progressive groups' emphasis focus on "solidarity" with the less fortunate.[47] She suggests that a focus on policies to strengthen marriage and families can address many of the real underlying causes both of abortion and of economic deprivation and thus unite truth-telling with solidarity. Kevin Doyle, as chief capital defender for New York State, represents the consistent-life ethic's opposition to the death penalty. He offers "six tactical and strategic imperatives for advancing a consistent pro-life agenda," the last of which is to recognize that "our greatest enemy" is a mass culture that is "eroding our hearts and minds" through violence, noise, and superficiality.[48] Finally, philosophy professor John O'Callaghan explains why the "seamless garment" metaphor may lead Catholics into confused thinking that equates absolute norms against certain acts with the prudential judgments that must be made "in the pursuit of the various goods of human life."[49]

The symposium concludes with papers on "The Political Future of Pro-Life Progressivism." Political scientist Ted Jelen presents findings, sobering for the pro-life progressive, based on surveys of the political opin-

44. Kevin E. Schmiesing, *Another Social Justice Tradition: Catholic Conservatives*, 2 U. St. Thomas L.J. 310 (2005).

45. *Id.* at 323 (citing Pope John Paul II, *Centesimus Annus* (May 1, 1991) (available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html)).

46. *Id.* at 326.

47. Helen L. Alvaré, *The Consistent Ethic of Life: A Proposal for Improving Its Legislative Grasp*, 2 U. St. Thomas L.J. 328, 333 (2005).

48. Kevin Doyle, *Can the Seamless Garment Be Sewn? The Future of Pro-Life Progressivism*, 2 U. St. Thomas L.J. 378, 378, 384 (2005).

49. O'Callaghan, *supra* n. 29, at 370.

ions of Catholic laity and clergy. He concludes that neither laity nor priests "exhibit attitudes consistent with Cardinal Bernardin's 'seamless garment,'" instead behaving more as "'issue specialists,' who approach specific questions of policy individually, without regard for an underlying theological rationale."[50] To the extent that the consistent-life position is a priority for the Catholic Church, Jelen remarks, "much work remains to be done" with those in the pulpit as well as those in the pew.[51]

Finally, to close the symposium papers, Dean Mark Sargent of Villanova Law School offers a more hopeful, if still cautious, prognosis for some version of "pro-life progressivism." Among other things, Sargent defends the coherence of the approach against the charge that it equates absolute principles with prudential judgments. In his view, even a pro-life, anti-abortion policy requires prudential judgments—such as whether to try to enforce bans on abortion in addition to reducing pressures to abort—while decisions on matters such as military force and anti-poverty policy are not purely prudential but are significantly constrained by moral principles.[52] And although Sargent acknowledges the challenges to pro-life progressivism—both legitimate intellectual criticism and practical political obstacles—he sees opportunity for change "if Americans begin to feel more profoundly" a disgust with a political landscape that "sever[s] faith from a commitment to social justice."[53]

50. Ted Jelen, *American Catholics and the Structure of Life Attitudes*, 2 U. St. Thomas L.J. 401, 421 (2005).

51. *Id.* at 422.

52. Sargent, *supra* n. 35, at 391-92.

53. *Id.* at 399.

KEYNOTE ADDRESS

PROPHETIC POLITICS: A NEW OPTION

REV. JIM WALLIS*

Good afternoon.

Thank you very much. I am pleased to be here today at this innovative law school. I had a chance this morning to meet some of the law students and to hear from some of the deans and others. I am very encouraged by what is happening here and at this conference.

I recently spoke at the Los Angeles religious education conference, Cardinal Mahoney's conference, where I've spoken a number of times. I'm one of the token Protestants—and I told them, having grown up in the Evangelical tradition, it's really great to be a friend of the family. Evangelicals have a lot of conversions, you know; that is one of our hallmarks. I am a Protestant who converted to Catholic social teaching, a teaching that is a rare treasure for the whole Church. And I am always pleased when I come to Catholic conferences like this because I learn so much about this extraordinary framework through which we can learn to think about society and politics. And I am happy to be with John Carr, my old friend from Washington, D.C. We have collaborated, when we could, on so many things.

I'd like to talk about *changing the wind*, a metaphor I often use. I remember speaking to a group of welfare mothers on the Mall. They were there to lobby on behalf of effective welfare reform; there were about 2,000 of them. I call them "Burger King moms," as opposed to "soccer moms" and "NASCAR dads" and "security moms." I said, "I don't want you to have to waste your time, your valuable time, while you are here, so here is how you recognize the members of Congress: they are the people who always are running around with their fingers in the air to see which way the wind is blowing." And we too often think that changing one wet-fingered politician for another is what changes Washington.

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Practitioners of great social movements know better. Dr. Martin Luther King, Jr. knew better; Ghandi knew better. They knew we couldn't change a nation until we changed the wind. When you change the wind, politicians are enormously flexible and mobile in their movements. But you have to change public opinion to change the wind; you have to change how you think about things. That's our task today.

I want to tell you a story about another time I addressed some students—I see a lot of students here today. It was very different from a prestigious law school or—I was at Macalester last night—a great college. Rather, it was at Sing Sing Prison in upstate New York. They had written and asked if I could come and speak to their students. It sounded interesting, so I said, "Sure, when would you like me to come?" This young man—this young prisoner—wrote back and said, "Well," he said, "we're free most nights." He said, "We're kind of a captive audience." A real comedian this man was. And so I wrote to the warden, and he gave us a room in the bowels of Sing Sing.

You know the phrase "up the river?" That's Sing Sing—up the Hudson River. And I was with these eighty inmates all alone—it was just us for about five hours, one night at Sing Sing. And one of them said something I'll not soon forget. He said, "Jim, most of us up here at Sing Sing—the whole group—are from just four or five neighborhoods in New York City." Imagine that. It's a powerful image: just four or five neighborhoods. "It's like there's a train running through my neighborhood," he said, "you get on that train when you're nine or ten years old, and that train ends at Sing Sing." New York Theological Seminary was running a program that resulted in a certificate of theological studies inside the walls of Sing Sing, the only seminary program of its kind in the country. He has graduated. His sentence is up. We had devotions inside those walls, and he told me, "When I get out, I want to go back and stop that train." That's my idea of a faith-based initiative.

I often go around the country saying, "Faith changes the big things." The things in the world that cannot be changed, the things that seem *impossible* to change. That's my faith. My Bible says faith is the substance of things hoped for, the evidence of things not seen. My best paraphrase is: "Hope is believing in spite of the evidence, and then watching the evidence change." So I'm going to be talking about the big things that we can change, that faith has changed before and can do again. Three billion people living on two dollars a day is a big thing, a *big thing*. Half of God's children on the planet live on less than two dollars a day; or as John Carr described it, there's "a silent tsunami" claiming the lives of 30,000 children each and every day. Hunger and lack of clean drinking water—things we could change and change rather quickly if we ever decided to. That's a big thing. But there is another big thing that has to be changed and it is even deeper than something as profound as global poverty. This is the political

structure itself; the political categories we are imprisoned by, the political framework—which I would argue is not a framework; it's a straitjacket. Washington has a political habit of taking an issue, making us afraid of it, and then blaming it on the other side, and then taking a poll, and seeing who won the poll. The election is just the final poll. They never get back around to solve the problem.

Two quick stories . . . The room was overflowing with students. They were sitting on the floor, out in the hallway. They were talking about their objections to the war in Iraq, their concerns about global poverty, HIV/AIDS, what are the most effective ways to protect the environment—and they talked about abortion. This was the University of Notre Dame; the students were Catholic, and they were struggling with how to vote their values.

One young woman stood up and said, "With four thousand people—four thousand unborn lives lost today—how can I vote on any other issue than that?" I let the question linger for a while to see what might happen. Another young man stood up and said, "Nine thousand people died today due to HIV/AIDS—what do I do about that?" Another one stood up and said, "Thirty thousand children died today because of hunger and diseases related to hunger—what do I do about that?" It was a good conversation. And the students concluded there was no pro-life candidate running in this election. There wasn't a consistent life-ethic candidate or party running. How do I vote in light of what we talked about today was their question—how do I vote my values?

The Democrats fail to comprehend how fundamental the conviction on the sacredness of human life is for millions of people, millions of Christians, especially perhaps Catholics and Evangelicals—how deep this goes for us. The liberal political correctness, which includes a rigid litmus test of being pro-choice, really breaks down here. Their conventional wisdom is that people who are conservative on abortion or family values are so about everything else. They're simply wrong, absolutely wrong. Christians are economic populists, peacemaking internationalists, and committed feminists, and can also be pro-life.

I was in Boston at the Institute of Politics in 2002 after another election. The others there were those who had just lost a recent election, so they'd become fellows at Harvard and thought it was prestigious. I hadn't lost an election, but I was there—the only religious-type there. Well, a Republican political operative came to speak to us at a private, hallowed, big dinner one night. He had just run campaigns for five candidates for the Senate or gubernatorial offices, and he had won all five. He was full of his success, anxious to tell us about it, and let's just say he wasn't "nuancing" at all. And he said, "Here's how it works: we win working-class people, middle-class people on social issues—those moral-cultural issues that Democrats don't seem to understand or appreciate—and we get them to vote

against their own economic self-interest." He said that out loud. "And the rich are on board with it," and that's how it went. That's what he said. I'm not at all exaggerating the caricature. So I raised my hand. And he didn't know who I was, so he called on me. And I said, "What would you do if you faced a candidate who, on social and cultural issues, although he or she wasn't mean-spirited, was worried about the breakdown of the family?"

The thing is the broken-down family is a big deal—family breakdown, marriages unraveling. My neighborhood is 80 percent single-parent families. My friends, you can't overcome poverty when you have 80 percent single-parent families. You've got to recreate the bond of family, community, and parenting. When I go around the country and say that parenting in America is becoming a countercultural activity, all parents nod their heads, liberal and conservative.

I continued before the Republican operative, "This candidate would be pro-family, pro-marriage, and pro-kids, and talk about the moral pollution of society. This candidate would be pro-life, would think abortion is a moral issue, and would at least press the obvious common ground that could be built (if political leaders in this country ever wanted to) between so-called pro-choice and pro-life people—about substantially reducing the massive numbers of unwanted pregnancies." This could be done on the common ground that nobody wants to build: a pro-life strategy of personal responsibility and moral values, outspoken against the popular culture that aims its deadly ethos at children. I went on, "And our candidate would be an economic populist—pro-poor in social policy, tireless against corporate corruption and power, open in support and dedication to the environment, and committed to a foreign policy that emphasizes international law and multilateral cooperation over reactive and unilateral war."

"What would you do," I asked, "if you faced that kind of candidate?" There was a long pause in that room. And then this very smart Republican political operative said, "We would panic." We would panic.

I'm now speaking on what I call *prophetic politics*, which during the election summarized the following question: how do I vote for that? Choices or values now are apparently defined among American people in such a way that the flawed exit poll you heard about after the election talked about moral values here and issues there, as if values aren't embedded in issues. If I cared about the war in Iraq, I would have checked "Iraq" as my moral value, or if I were a Catholic soup kitchen coordinator, I would have checked "poverty, healthcare, and the economy"—not just "moral values."

A Zogby poll came out a week later making it clear as to what is the moral crisis facing Americans. Sixty-four percent of the voters said it was "greed/materialism" or "poverty/economic justice"—64 percent. Too bad nobody spoke to that during this election. I was asked by a reporter after the election, "I guess your vision lost?" "No," I said, "mine wasn't run-

ning." Mine wasn't running. Nobody checked "poverty/poor people" as a moral value. Nobody talked about Iraq as a moral value. And there was this question, "When do we go to war? How do we go to war?" You know what? I'm going to tell the truth about going to war: it's a question of moral values too. We're saying this in our own country. And those values carry voters who vote all their values.

For the purpose of the conversation today, may I suggest there are three major political options in our public life. The first political option in America today is to be conservative at everything: from cultural, moral, and family concerns, to economic, environmental, and foreign policy issues. Differences arise between aggressive nationalists and cautious isolationists, corporate apologists and principled fiscal conservatives. But this is a political option clearly on the ascendancy in America, with most of the dominant ideas in the public square coming from the political Right.

The second political option in contemporary America is to be liberal on everything: family, sexual, cultural issues, and economic, environmental, and foreign policy matters. There are also differences among the liberals from pragmatic centrists to far leftists, but their intellectual and ideological roots come from the left side of the cultural and political spectrum. And today most of the left, liberal options find themselves on the defensive.

A third option in American politics—growing every day—is to be laissez-faire: liberal on cultural and moral issues, and conservative on fiscal, economic, and foreign policy. This option is the one with which I have least in common. This is the "just leave me alone and don't spend my money" option, which is quickly growing in American life.

I have a fourth option for American politics, which hails from the prophetic religious tradition. It's founded upon my own nineteenth-century evangelical heritage; I'm a nineteenth-century evangelical born in the wrong century—back when evangelicals were evangelists and abolitionists; they fought for social equality, for women's suffrage, and for child labor-law reform. And, of course, I found my home in the black churches that led the civil rights movement based on the Bible.

This option is also, I think, reflective of Catholic social teaching. It is traditional, concerned with issues like family values, sexual integrity, and personal responsibility, while also being very progressive, even populist, even radical, on issues like poverty and racial justice. I am not liberal on economic justice; I am radical on economic justice because that's what my faith requires of me, as it did of my own mentor, Dorothy Day. This option requires a dedicated stewardship of the earth and its resources, supporting clean air quality, and is more internationally-minded than nationalist, looking first to peacemaking and conflict resolution when it comes to foreign policy questions.

This option appeals to people with religious interests—and to those without them—who are very strong on issues like marriage, raising kids, individual ethics, and the sacredness of human life, without being unsympathetic, reactionary, mean-spirited, or scapegoating against any group of people, like homosexuals. They can be pro-life, pro-family, and pro-feminist all at the same time. They think issues of moral character are very important, both in a politician's personal life and in his or her policy choices. They are decidedly pro-poor, pro-racial reconciliation, critical of purely military solutions, and defenders of the environment. At the heart of the fourth option is the integral link between personal ethics and social justice. It appeals to people who refuse to make the false choice between the two.

Who are these people? As I said a minute ago, they are Catholics, Protestants, and Evangelicals, and they don't identify with the religious Right. They are members of all of our denominational churches who want to put their faith into practice. They are Jews and Muslims who are guided by an active faith, not just a personal background. They are people who do not consider themselves "religious" but, rather, spiritual, and would be drawn to a fourth option in politics; and they are people, religious or not, who consider themselves shaped through a sense of moral values and long for a political commitment that reflects them.

As I travel around the country, I find a whole reservoir of such people. Yet this is not a serious political option in Washington, D.C. or in any of our political parties. It transcends the categories of both the secular Left and the religious Right.

I believe it is time to assert a clear fourth political option. I've had conversations with E. J. Dionne along those lines, and he tells me there's this huge constituency of "non-right-wing Christians," as he calls them. They have to be organized. It's not much of a name for a movement, "non-right-wing Christians." But like each of us, we have personal, moral questions and are progressive on social justice. We have conversations with legislators, trying to get them to see that the roots of poverty are both cultural and structural, and the integration of the two is what finally will produce some solutions. One side says—and it's amazing to me, because I see the poor are trapped in the debate about poverty—"It's about family relationships and sexual immorality and personal choices and that's it." And the other side says, "It's about childcare investment, and adequate healthcare, and affordable housing." And then these two sides come at it, and I know that neither of them must live anywhere near poor people because there are choices, behaviors, breakdowns in relationships that cause an entrenched poverty, and there are structures, policies, decisions, and choices that make escape from poverty impossible. The liberal and conservative sides continue to debate and the poor are left behind. And while that happens, most of them are still okay. But low-income families are not.

For us to make a new political option in this country, we must recognize that, as I say in the book, the Right gets it wrong and the Left doesn't get it. The Right is so comfortable with the language of religion, God, and faith that sometimes they seem like they think they own it. Own God? And then they simplify everything to two issues—to their own two moral values issues—abortion and gay marriage. I'm having a rigorous, tough conversation with many Democrats on the issue of abortion. Some of them are beginning to pay attention and change at least some of their language. But, I think and say, "Language is not enough; action is what's called for." Changing action and policy would be the test of whether defeat causes serious rethinking.

But I insist, as an evangelical Christian, that when there are thousands of verses in the Bible about the poor—I can't ignore them. So, fighting poverty is a moral values issue too. The pillars of the religious Right, the ones who don't want to teach evolution in our schools, quickly become social Darwinists when it comes to social policy—it's the survival of the fittest when it comes to social policy.

Protecting God's creation is a moral value. There was recently the miracle when the National Association of Evangelicals actually committed itself on global warming. It will change the political conversation in Washington, D.C. As Rich Cizik, vice president for governmental affairs of the NAE said, "I don't think God will ask us how he created the world but will ask us rather how we took care of the world he created"—one of the most Christian comments I ever heard.

The inconsistencies on the left and on the right are staggering. The Left is uncomfortable because they have let the party that was once linked with a mass civil-rights movement led by black church ministers become the secular party, disdainful of religion. In Boston, a young man came up to me with a book to be signed and said, "I'm gay. Thank you for making me—us—feel included tonight." "But, you know what," he said, "it's easier to come out as gay in Boston than to come out as religious in the Democratic Party."

I was on *The Daily Show with Jon Stewart.* Jon's an interesting guy. He's funny, but he's serious, and he had good questions, smart questions. He asked, "What's the relationship between trade, aid, and debt in overcoming global poverty?" I could tell he had read the book cover to cover because both questions come out at the end. And as we talked, he said, "Sir, you want to apply religion—like the teaching of Jesus—to politics?" And I could feel his whole audience of millions of young Americans say, "Oh, no, he's got some wacko evangelical on his show who is going to ruin my favorite show." And I said, "You know, I don't think that Jesus' first two priorities would have been the capital gains tax cut and the occupation of Iraq."

How did Jesus become pro-rich, pro-war, and only pro-American? My wife is an Anglican priest, one of the first women ordained in the Church of England ten years ago. She reminds her new American neighbors that "God bless America" is found no place in the Bible. How have we come to this place? I'm reminded by one of my Democratic friends, where would we be if the Reverend Martin Luther King, Jr., had kept his faith to himself? Lincoln had it right: you don't claim God's blessing on your nation, its policies, its practices. We should pray earnestly that we are on God's side, rather than claiming, "God is on our side." "God is on our side" leads to overconfidence, arrogance, and political hubris of all kinds. It leads to bad foreign policy, and preemptive and unilateral wars. "We're on God's side" leads to the missing values of politics: humility, penitence, reflection, and accountability.

If Lincoln got it right, King did it best, with his Bible in one hand, the Constitution in the other. He had a vision. The Bible says, "Where there is no vision, the people perish."[1] Well, the Democrats should know that without a vision, you lose elections. Where there is no vision, the people perish. The Revised Standard Version says, "Where there is no prophecy the people cast off restraint."[2] And it says that those who perish first are always the most vulnerable—they are the kids who fall through the cracks of our debates, our endless posturing, and our self-involved discussions that don't end up actually solving problems or saving lives.

The media is even worse. Did you know that there are only two sides to every social problem? Always two sides: Left and Right. They do these pre-interviews with you on television. It's like an actor's audition to see if these two talking heads have enough conflict to generate good television. They're not trying to solve a problem; they're trying to entertain with conflict-based television. They're just a bit more moderate than Jerry Springer.

Youth violence does not have two sides. Many articles have cited this: there are many stakeholders, many constituencies, many perspectives needed to solve the problems. I feel a country hungry for the politics of solutions, and the politics of hope.

Religious teachings should not be used as wedges or weapons to incite violence across hostile, red-blue dividing lines. They're meant to be bridges, bridges that bring us together. We find common ground by moving to higher ground. And you know, I've just spent seven weeks on the road at these town meetings disguised as book signings. We're all talking about what common ground might look like, even on the toughest, most controversial questions. And there's a hunger for it, a hunger for a new conversation.

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1. *Proverbs* 29:18 (King James).
2. *Proverbs* 29:18 (Rev. Stand.).

There's more than just talk. There's a hunger for the word I hear all the time: movement, movement, movement. I want to join something; I want to be part of something. There's a whole generation that doesn't like our "take them out back and throw them in the trash can" mentality.

I keep hearing, "I want what's right, and I want what works." They know what's right and what's wrong.

I think we're all going to a new place that will provide us with some new solutions, and a new conversation about faith and values and politics.

And I believe that we should take on something that's as big as this, as big as trying to fashion and form another political option. I'm not talking about a political party. I'm talking about a political option.

What changes history are always social movements. Social movements that have a spiritual foundation are the best ones. Movements don't worry about politics, politicians, and elections. But in fact they change politics, politicians, and elections.

I'm often asked to talk about two things—counseling departments appreciate this—your vocation and your career. I encourage you to think about your vocation more than just your career. Asking the vocational question, rather than just considering the career options, will take you much deeper. Start by discerning your gift while you're doing it. What's in your gut, your heart and soul? What makes you who you are? What's your passion? What were you put on this earth to do? When your gift meets the pressing needs of the world, that's your vocation. The connection between your passion and the crushing needs of the world is your vocation. Discern your passion. It's like your essence; it's like your passion broken loose upon the world. So, cherish your passion, and cherish the needs of the world.

So, what am I talking about? It's not just about issues; it's really about a new political option. All of you (including the Protestants), the Catholic social teaching, this school, this teaching, this consistent ethic of upholding life, which Cardinal Bernardin so eloquently defended—and let me just say that I miss Cardinal Bernardin so much in these days, with that kind of ethic and that kind of wisdom—*we* can build political action out of this ethic, and this nation is hungry for it, ready for it, and maybe even in Washington they may pay some attention to it, if we were to change the wind.

Let me just close with another quick story. I had a mentee, a young woman. Her name was Lisa Sullivan; she was smart—a young African-American woman, she went to Yale to get her Ph.D. She had a ticket to anywhere, and she came back to D.C. to the kids on the street. She was the best street organizer I have ever known. She was hip-hop and rap. She scolded, she hugged, she loved, and she cared for those kids, and she transformed thousands of lives. And she put the capacity in place for all these street-wise organizations. But the problem was that Lisa, who had such a

big heart, had a heart ailment that no one knew about. And in a few weeks, my good friend and board member, before she was forty years old, had died. Marian Wright Edelman of the Children's Defense Fund and I held each other at Lisa's grave site and just wept because Lisa was the future, she was the star, she was what we were waiting for. But she leaves us words of wisdom, which I have in the commission of the book because I think Lisa's words are a trumpet call. When people would tell her "Lisa, it's too big—the problem is too big—and we're too small; the fires, the chaos, the deaths, these are too big, and our capacity, our faith, is just too small," she would get angry and say, "Don't say that, don't say it's too big and we're too small." "Don't you understand," she'd say, "don't you understand? We are the ones we have been waiting for."

We are the ones we have been waiting for. We are the ones. Do you know what creating a political option takes? It takes just a good handful of people to take Lisa's words seriously. So, we are the ones, by God's grace and with God's help, who will create a new political option in America. Because the nation is hungry and thirsty, and it's time for us to offer a vision without which the people are perishing.

ARTICLE

THE CONSISTENT LIFE ETHIC: A LOOK BACK, A LOOK AROUND, A LOOK AHEAD

JOHN L. CARR*

I. INTRODUCTION

A gathering like this is one of the reasons the University of St. Thomas School of Law came into being. The defense of human life and dignity and this kind of dialogue are at the heart of the mission of this law school. I am very pleased to be a part of this symposium, but I am a bit anxious. Whenever I am introduced by my rather pompous title, I get a little nervous. How would you like to be "Director of Social Development and World Peace for the United States Conference of Catholic Bishops"?

I'm reminded of a story I often tell of getting on an elevator in Chicago at a meeting of the bishops' conference. We wear these very large name tags—"Bishops' Conference, name, title, etc." A couple got on the elevator and looked at me rather strangely. The husband declared, "You're not a bishop!" I don't know if it was my wedding ring or the way I was dressed that gave me away. I said, "I'm not a bishop; I work for the bishops." I could see he was reading the rest of the nametag and he said to his wife: "He's in charge of social development and world peace." She seemed a little underwhelmed by this and declared, "You need to do a better job!"

We all "need to do a better job" of standing up persistently and consistently for human life and dignity. That's what brings us here today.

St. Thomas has a special place in my life. My father and I are both alumni. My daughter is a junior at St. Thomas. I am humbled and honored to serve on the board of governors of this impressive new law school with its distinctive, and much needed, mission of linking Catholic social teaching and legal education.

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* Sec. Soc. Dev. and World Peace, U.S. Conf. Catholic Bishops. This paper is based upon opening remarks given at the *University of St. Thomas Law Journal*'s symposium, "Can the Seamless Garment Be Sewn? The Future of Pro-Life Progressivism," Minneapolis, Minn., Mar. 11, 2005.

It is also very appropriate that this dialogue take place here in the Twin Cities given the history of the Archdiocese of St. Paul-Minneapolis. Through the decades, John Ireland, John A. Ryan, John R. Roach, all priests of this Archdiocese, have been leaders of the Catholic Church's engagement in public life. Archbishop Harry Flynn and Fr. Dennis Dease continue this important legacy.

It is also good to be out of Washington, where too often interests trump ideas, polls overwhelm principles, and narrow agendas undermine the search for the common good. Our nation's capital is often paralyzed by excessive partisanship and the demands of powerful interest groups. The consistent defense of human life and dignity is often frustrated by partisan pressures, ideological straightjackets, and political business as usual.

I address this topic with a personal prejudice. I am a product of a "mixed marriage." Both of my parents were Minnesota Catholics, but my mother was from St. Paul and my father from Minneapolis. Of more relevance, my mother was a committed Republican and my dad is a die-hard Democrat. I learned at an early age that people of strong faith and moral conviction could work for human life and dignity in different ways within our democracy.

I am not an academic, an attorney, or policy maker. My comments reflect my experience of helping the Catholic bishops share and apply the Church's teaching on human life and dignity, justice and peace. In these reflections, I draw heavily on statements of the United States Conference of Catholic Bishops (especially *Faithful Citizenship*[1]) and Vatican documents (especially *Evangelium Vitae*[2] and the *Doctrinal Note on some Questions Regarding the Participation of Catholics in Political Life*[3]). However, the analysis and judgments expressed here are my own personal views and do not necessarily reflect the positions of the Conference. Since the Conference has a task force dealing with the relationship of bishops and Catholic politicians, I am not addressing those matters or the recent controversies surrounding them.

In these modest reflections, I hope to contribute to this dialogue with

1. **a look back** at the consistent life ethic: what it is and is not;
2. **a look around** at the context for the consistent life ethic: What are "pro-life progressives" up against? What are signs of good news and bad news?;

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1. U.S. Conf. Catholic Bishops, *Faithful Citizenship: A Catholic Call to Political Responsibility*, http://www.usccb.org/faithfulcitizenship/faithfulcitizenship03.pdf (2003) [hereinafter *Faithful Citizenship*].

2. Pope John Paul II, *Evangelium Vitae*, http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html (Mar. 25, 1995) [hereinafter *Evangelium Vitae*].

3. Congregation for the Doctrine of the Faith, *Doctrinal Note on Some Questions Regarding the Participation of Catholics in Political Life*, http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20021124_politica_en.html (Nov. 24, 2002).

3. **a look ahead** at some dangers and directions, some temptations, and some opportunities for a "progressive pro-life agenda."

II. A Look Back

More than two decades ago, Cardinal Joseph Bernardin first outlined "the consistent life ethic" at a lecture at Fordham University.[4] Over the next three years, he gave ten lectures on the topic.[5] This initiative was shaped by his experience as chairman of the USCCB Pro-Life Committee and the committee that developed the bishops' pastoral letter on war and peace. It was also influenced by his service as general secretary and president of the Conference, his responsibilities as archbishop of Chicago, and ultimately his experience as a person dying of cancer.

A. *Old and New*

The idea was, in his words,

> "both old and new. It is 'old' in the sense that its substance has been around for years. For example, in a single sentence the Second Vatican Council condemned murder, abortion, euthanasia, suicide, mutilation, torture, subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, and disgraceful working conditions."[6]

This "old" idea is anchored in the scriptures. In Deuteronomy, we hear the call to "choose life, then, that you and your descendants may live. . . ."[7] Jesus came so that "they might have life and have it more abundantly."[8] Jesus' parable of the Last Judgments points out we would be judged by our response to the "least" of these.[9] In the Beatitudes, we learn that the Kingdom of God belongs to those "who hunger and thirst for righteousness" and act as "peacemakers."[10]

The consistent life ethic was *new* in that it directly linked, in a public and explicit way, different threats to human life and called for common Catholic commitment and action to defend human life from conception to

4. Joseph Cardinal Bernardin, Gannon Lecture, *A Consistent Ethic of Life: An American-Catholic Dialogue* (Fordham U., Dec. 6, 1983), in Joseph Cardinal Bernardin, *Consistent Ethic of Life* 1-11 (Thomas G. Fuechtmann ed., Sheed & Ward 1988).

5. Joseph Cardinal Bernardin, *Consistent Ethic of Life* (Thomas G. Fuechtmann ed., Sheed & Ward 1988).

6. Joseph Cardinal Bernardin, Address, *The Consistent Ethic of Life* (Melbourne, Australia, Feb. 23, 1995), http://archives.archchicago.org/JCBpdfs/JCBatconsistentethicaustralia.pdf.

7. Deuteronomy 30:19-20 (New Am. Stand.).

8. John 10:10 (New Am. Stand.).

9. Matthew 25:40 (New Am. Stand.).

10. Matthew 5:3-12 (New Am. Stand.).

natural death, from "womb to tomb."[11] These themes are also "new" as today's headlines. I point to the surprise and disappointment of some and the satisfaction of others that "moral values" were a key factor in the recent national elections. Despite, in my view, a rather dismal campaign, many voters focused on issues of life and death and war and peace.

B. Used and Misused

Cardinal Bernardin's initial call generated both support and controversy. Supporters welcomed this common moral framework and the call for Catholics to work together to defend life in a society losing respect for human life. Critics suggested Bernardin had embraced a kind of moral equivalence, making no ethical distinctions and insisting that everyone work on every issue of human life and dignity. Cardinal Bernardin sought to reassure his critics, outlining clear distinctions between issues with different levels of ethical gravity and moral demands, but still calling for connections and collaboration.[12]

Cardinal Bernardin put it this way in St. Louis in 1984: "Does this mean that everyone must do everything? No! There are limits, time, energy and competency. There is a shape to every individual vocation. People must specialize, groups must focus their energies."[13]

As the discussion continued the Cardinal seemed to suggest the consistent life ethic had been both used and misused. He pointed out,

> The concept itself is a complex and challenging one. It requires us to broaden, substantively and creatively, our ways of thinking, our attitudes, our pastoral response. Many are not accustomed to thinking about all the life-threatening and life-diminishing issues with such consistency. The result is that they remain somewhat selective in their response. Although some of those who oppose the concept seem not to have understood it, I sometimes suspect that many who oppose it recognize its challenge. Quite frankly, I sometimes wonder whether those who embrace it quickly and whole-heartedly truly understand all its implications.[14]

C. The USCCB and the Vatican

Over time, the consistent life ethic was accepted and promoted by the United States bishops in differing ways, in the 1985 *Pastoral Plan for Pro-*

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11. Joseph Cardinal Bernardin, Lecture, *A Consistent Ethic of Life: Continuing the Dialogue* (St. Louis U., Mar. 11, 1984), in Bernardin, *supra* n. 5, at 15.

12. *Id.* at 13.

13. Bernardin, Address (Seattle U., Mar. 2, 1986), in Bernardin, *supra* n. 5, at 83.

14. Bernardin, *supra* n. 6.

Life Activities,[15] in Political Responsibility statements, and in *Faithful Citizenship*[16] and *Living the Gospel of Life*.[17] Representative excerpts provide:

> We hope that voters will examine the position of candidates on the full range of issues as well as on their personal integrity, philosophy, and performance. We are convinced that a *consistent ethic of life* should be the moral framework from which to address issues in the political arena.[18]
>
> Opposition to abortion and euthanasia does not excuse indifference to those who suffer from poverty, violence and injustice. Any politics of human life must work to resist the violence of war and the scandal of capital punishment. Any politics of human dignity must seriously address issues of racism, poverty, hunger, employment, education, housing, and health care. Therefore, Catholics should eagerly involve themselves as advocates for the weak and marginalized in all these areas. *Catholic public officials are obliged to address each of these issues as they seek to build consistent policies which promote respect for the human person at all stages of life. But being "right" in such matters can never excuse a wrong choice regarding direct attacks on innocent human life.* Indeed, the failure to protect and defend life in its most vulnerable stages renders suspect any claims to the "rightness" of positions in other matters affecting the poorest and least powerful of the human community.[19]
>
> The Pastoral Plan is set in the context of *a consistent ethic* that links concern for the unborn with concern for all human life. The inviolability of innocent human life is a fundamental norm.[20]

This sweeping vision of respect for all human life has also been articulated, clarified, and extended in John Paul II's landmark encyclical *Evangelium Vitae* (The Gospel of Life).[21] He has clearly carried it out in his quarter century of teaching and leadership in confronting a "culture of death" and building a "culture of life."[22] He became the world's foremost opponent of the evil of abortion, the moral dangers of euthanasia, and the misuse of science to destroy life. He was an effective champion of human freedom, helping to bring down the oppression of communism and warning

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15. U.S. Conf. Catholic Bishops, *Pastoral Plan for Pro-Life Activities: A Campaign in Support of Life*, http://www.usccb.org/prolife/pastoralplan.htm (2001) [hereinafter *Pastoral Plan for Pro-Life Activities*].

16. *Faithful Citizenship*, *supra* n. 1.

17. U.S. Conf. Catholic Bishops, *Living the Gospel of Life: A Challenge to American Catholics*, http://www.usccb.org/prolife/gospel.htm (1998) [hereinafter *Living the Gospel of Life*].

18. *Faithful Citizenship*, *supra* n. 1, at 7 (emphasis added).

19. *Living the Gospel of Life*, *supra* n. 17, at ¶ 23 (first emphasis added, second emphasis in original).

20. Joseph Cardinal Bernardin, Address, *Consistent Ethic of Life Conference* (Portland, Or., Oct. 4, 1986), in Bernardin, *supra* n. 5, at 87.

21. *Evangelium Vitae*, *supra* n. 2.

22. *Pastoral Plan for Pro-Life Activities*, *supra* n. 15.

against the human and moral costs of unrestrained capitalism. He strongly advanced and articulated the Church's call to end the use of the death penalty. To the very end of his papacy, he prayed and worked for peace—challenging leaders to find alternatives to war and journeying to the Holy Land to seek both justice and peace.

D. From Seamless Garment to Consistent Life Ethic and Culture of Life

Cardinal Bernardin moved away from the metaphor of the "seamless garment." He and the U.S. bishops used the term "consistent life ethic" rather than "seamless garment." The U.S. bishops in 1994 released a statement titled, *Confronting a Culture of Violence*.[23] In *Evangelium Vitae*, Pope John Paul II condemned "the culture of death" and made the building of a "culture of life" a centerpiece of his teaching and leadership.[24]

In my own view, the so-called "seamless garment" is neither. The consistent life ethic is not "seamless" in weaving all life issues into a single fabric of moral analysis and public action. It brings together different issues of human life involving different moral principles, ethical requirements, and moral claims. Clearly, the direct and intentional taking of innocent, unborn life through abortion is not the same, morally, as the death of a child from hunger in Africa. The targeting and killing of civilians in war or terror campaigns raises different moral questions than high rates of infant mortality resulting from lack of health care. However, for consistent life advocates, this ethic insists that *all* these lives require our respect, protection, and action. Respect for the life and dignity of every person, a foundation of Catholic social teaching, unites us in efforts to defend life whenever and however it is threatened.

This consistent ethic of life is also not a one-size-fits-all "garment," a huge cloak of moral analysis and reasoning to be cast over all of public life and every policy choice. Rather, it offers a moral framework, and a way of thinking, analyzing issues, and acting with coherence and consistency on related but distinctive threats to life and human dignity.

Rightfully understood, the consistent life ethic is not a moral menu, an issue scorecard, a political tactic, or excuse for failing to act to protect some human lives. It does not make all issues equal. *Faithful Citizenship* points out that "[a]bortion and euthanasia are preeminent threats to human life and dignity because they directly attack life itself."[25] The consistent ethic of life begins with direct attacks on life, but it does not end there. It insists that every life is sacred. It does defend all life and every life, from conception to natural death. It should not be a partisan slogan or ideological sound

23. U.S. Conf. Catholic Bishops, *Confronting a Culture of Violence: A Catholic Framework for Action*, http://www.usccb.org/sdwp/national/criminal/ccv94.htm (1994).

24. *Evangelium Vitae*, *supra* n. 2, at ¶¶ 87, 95.

25. *Faithful Citizenship*, *supra* n. 1, at 10.

bite, but an expression of what we believe and how we act as a community of faith committed to the sanctity of life.

At the center of the Church's moral and social teaching is the life and dignity of the human person. This has been the centerpiece of Pope John Paul II's quarter century of leadership. "Human Life and Dignity" is the first principle outlined by the U.S. Catholic Bishops' Conference in its summary of Catholic social teaching.[26]

In the bishops' formulation—"Human Life *and* Dignity"—life clearly comes first. It is fundamental. Without life, nothing else is possible. "*And* Dignity" suggests life is directly linked to dignity. Without dignity, life is not truly human. Attempts to divide life and dignity should be resisted. Abortion and euthanasia involve the direct destruction of innocent human life. They are intrinsically wrong and cannot be defended. At the same time, dignity is not something we earn by our good behavior. It is something we have as children of God. Therefore, those things which make life truly human—faith and family, work and education, a decent place to live, enough to eat, and access to health care—are not luxuries or optional benefits, but human rights integrally linked to the right to life itself.

III. A Look Around

The pursuit of "pro-life progressivism" in the title of this gathering takes place in a complicated political and ecclesial context. The Second Vatican Council speaks of the "signs of the times."[27] I suggest a different metaphor: white-water rafting. We are being pushed along by some powerful "currents"—ecclesial, national, economic, global, cultural, and political. And there are a lot of "rocks" along the way. We need to know the currents and the rocks to get to our destination: a society more respectful of human life and dignity, a culture of life.

Ecclesial: Part of the ecclesial context is a Church under challenge. The clerical sexual abuse scandal undermines trust and credibility, raises issues of accountability and transparency, and requires an unprecedented and ongoing response. The bishops I work for are struggling to get this "right" and rebuild trust. But new policies and structures, while necessary, are not a complete response. An essential way forward is a renewed commitment to mission. This is a time to focus on the Church's mission—not just survival, maintenance, or management. Church leaders have to remind people we are more than our institutional mistakes. We are a community of faith that every day proclaims the Gospel, defends life, feeds the hungry, shelters the homeless, cares for the sick, and educates the young. The

26. U.S. Conf. Catholic Bishops, *Sharing Catholic Social Teaching: Challenges and Directions*, http://www.usccb.org/sdwp/projects/socialteaching/socialteaching.htm (1998).

27. Pope Paul VI, *Gaudium et Spes* ¶ 4, http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html (Dec. 7, 1965).

Church in the United States must be not only a "safe" place for young people; it must be a community acting effectively on its mission to defend human life and dignity every day.

National: Our nation is facing fundamental questions of life and death. We are at war—a war where many of the fears and concerns voiced by Pope John Paul II and the U.S. Bishops' Conference have been sadly realized. The Congress and courts are debating and deciding fundamental issues about the beginning and end of life as well as the moral limits of research and commerce (e.g., embryonic stem cell, cloning, etc.). Thirty years after *Roe v. Wade*,[28] the battle over legalized abortion on demand continues, kept alive by remarkable and persistent efforts against daunting elite opinion and power.

Economic: Our powerful economy in some ways pushes us forward and in other ways pulls us apart. Some Americans are moving ahead, seizing the opportunities of globalization with great personal and organizational rewards. Others are left behind struggling for life and dignity without decent work, wages, or health care. The hungry and homeless, those without the right education or skills, without the support of family or community, are often left behind. For the poorest people on earth economic issues are matters of life and death, contributing to hunger, disease, and despair.

Global: The international context starts with a broken and still violent world where many parents cannot feed their children; others are at risk because of their faith, tribe, or nationality; and so many are caught up in deadly violence and war. Millions of lives are destroyed or undermined by desperate poverty, corruption, disease, crushing debt, and a lack of authentic development. The estimated 30,000 people who die every day from hunger and its consequences have an inescapable moral claim on those who seek to defend life.

Cultural: A "culture of violence"[29] is a sad part of our context. Our society is trying to remedy difficult problems with violence. We live in a nation where more than a million unborn children are destroyed every year. We are part of a society where euthanasia and assisted suicide are advocated as remedies for age and illness. We are citizens of a country that relies on the death penalty to confront crime. And we are part of a nation increasingly resorting to military force to address international threats and disputes. Our bishops have suggested that a nation that destroys its young, abandons its old, and relies on vengeance and violence is in fundamental moral trouble.[30] These are signs of the "culture of death" that Pope John Paul II called us to resist.

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28. 410 U.S. 113 (1973).

29. U.S. Conf. Catholic Bishops, *supra* n. 23.

30. *Id.*

Political: The *political context* is both complicated and contradictory. I believe there are some promising signs. Questions about "religion and politics" are now highly visible and much debated in public life. Pollsters tell us "moral values" motivated and shaped the choices of many voters in the last election. Catholics are widely seen as a swing group of voters to be addressed and convinced. My own experience in many dioceses last fall, despite the simplistic headlines, was that many of us are wrestling with new seriousness over what it means to be both Catholic and American, a believer and a voter in this powerful democracy.

There are also disturbing signs. Much of the discussion of religion and politics is shrill and shallow—more about scoring partisan points than living one's faith in public life. The discussion of "moral values" is often superficial—defining morality by a few vital concerns while ignoring other matters of great ethical significance. The discussion of the "Catholic vote" is often misinformed, ignoring the ethnic, ideological and political diversity within the Catholic community. My suspicion is that people who talk about "*the* Catholic vote" probably don't know many Catholics. There is no Catholic monolith of voters to be delivered. Church attendance, ethnicity, economic status, party allegiance, union membership, and moral convictions about life, family, justice, and peace all shape Catholic attitudes and political action.

The poor and vulnerable seemed to be missing in the campaign. The bully pulpit was mostly invisible when it came to unborn children and poor families. Code words, targeted mailings, and attack ads often took the place of debate and discussion. After the campaign, it's worthwhile reminding people that there's more to being a Catholic than having been an "altar boy." Our faith is not "private." Abortion is not simply a "choice." I believe a "progressive" agenda begins with caring for the weak, and the unborn child is the weakest in our midst. It's also useful to suggest that the "culture of life" is much more than signing the partial-birth abortion ban. It is also about health care for pregnant mothers, it is about hunger at home and abroad, about war and peace, about no longer trying to teach that killing is wrong by killing.

Speaking personally, I find so much of politics shaped by different kinds of rampant individualism. For many Democrats and those on the cultural left, a kind of lifestyle individualism elevates personal identity and autonomy above all else, making "choice" an ultimate criteria for public life. For many Republicans and some on the economic right, a kind of free-market individualism dominates, insisting the market solves all problems and winners and losers are simply inevitable. Both these directions neglect a sense of the common good and have very little room for a priority for the poor and vulnerable. Maximizing "choice" and exclusive reliance on the unfettered workings of the market come from different ends of the political spectrum, but they can come together in a utilitarian ethic that can under-

mine human life and dignity as well as values of family, community, and sacrifice.

For many Democrats, you can disagree on the war, on trade, on many other issues, but if you believe *Roe v. Wade* was wrongly decided or unlimited abortion on demand is wrong, you are outside the "mainstream" and you are an "extremist," unfit to represent the Democratic Party or, more significantly, serve on the Supreme Court.

For some Republicans, who talk about "compassionate conservatism," often conservatism trumps compassion. The cost of the war and tax cuts overwhelm other needs. The rhetoric on overcoming poverty at home is often not matched by resources.

Sadly, and speaking personally, I fear that the intense polarization in public life may be finding its way into ecclesial life. The *New York Times* last November described "a battle between pro-life and social justice groups" within our Church. Newspaper ads and blogs attacking bishops and others who do not share a particular view are signs of a strategy of division—separating "us" and "them," good and evil within our community of faith. Respect, civility, and complexity are often lost in the battle of the moment. Some bishops are called "partisan" when they teach clearly and conscientiously on the life of the unborn. Others are called "soft" or "unfaithful" when they talk of other threats to human life and dignity. Division may help raise money and get attention, but it does not build up the Body of Christ. All of us need to ask: "Does our faith shape our politics or is it the other way around?"

In the face of this context, I echo the challenge Rev. Jim Wallis has outlined. When so many of our leaders and people have their finger to the wind, we need to "change the wind."

How do you change the wind on issues of human life and dignity? Where do you go? I believe you come to places like this law school and this university. These institutions and our community of faith have assets that can help "change the wind." Among those assets are

- moral principles: a consistent ethical framework and distinctive way of looking at the world and its challenges;
- everyday experience: reaching out to pregnant women and children, feeding the hungry, sheltering the homeless, caring for the sick and vulnerable, etc.;
- institutions and structures: universities and law schools, parishes and schools, state Catholic conferences, Catholic Charities and Catholic Relief Services, etc.;
- leaders: Pope John Paul II, the bishops of Minnesota, those who have led this struggle for life and dignity through the years; and
- people: students, professors, parishioners, allies, the people gathered here today.

A community organizer once told me, "if you got your act together, you would be dangerous." That's what this day is about: How do we get our act together? How can we really be "dangerous" in confronting a lack of respect for human life and dignity?

IV. A Look Ahead

In his addresses on the consistent life ethic, Cardinal Bernardin said: "I propose the consistent ethic not as a finished product but a framework in need of development."[31] "A consistent ethic of life must be held by a constituency to be effective. The building of such a constituency is precisely the task before the Church and nation."[32] Two decades later, this remains the task and challenge. The scriptures say, "Without a vision, the people perish. . . ."[33] It is also true that without a people, the vision can be invisible. Clearly, there can be no future for "pro-life progressivism" without pro-life progressives—principled, organized, and engaged in public life.

A. Some Directions and Dangers

Build Bridges: As defenders of human life and dignity, we're in this together. We should be bridge-builders between issues and constituencies. We can divide up the work, but we should not divide up the Church. As John Paul II said, we should be "people of life and for life."[34] There are different roles for academics and advocates, professors and pastors, policy-makers and citizens. There are differing tasks and priorities. There are diverse forums—classrooms and hearing rooms, law reviews and parish bulletins. However, we should not act as competing factions or interest groups, but members of one family of faith working toward the common goal of a culture of life.

Anchor in Faith and Express in Worship: The defense of human life and dignity is a work of faith, not a political platform or ideological agenda. Worship and work for life and dignity should enrich and shape each other. Prayer is not just a way to open a meeting. It should remind us who calls us to this work and why we pursue it.

Integrate, Don't Isolate this Work: The defense of human life and dignity is not another "program." This is not the topic for one conference or one class. This is not the work for a couple professors and a few students who "like that sort of thing." The commitment to human life and dignity cannot just be the work of a few activists or advocates, but must be the task of this entire community of faith and learning. It needs to be integrated into every aspect of this law school—teaching and research, curriculum and

31. Bernardin, *supra* n. 13, at 84.
32. Bernardin, *supra* n. 4, at 9.
33. Proverbs 29:18 (New Am. Stand.).
34. *Evangelium Vitae*, *supra* n. 2, at ¶¶ 6, 78, 101, 105.

governance, faculty selection and evaluation, awards and honors, and service and forums.

Share "the Secret": This message of human life and dignity and the themes of Catholic social teaching have been called our "best kept secret." There should be no excuse for it remaining a secret. These principles need to be shared and applied every day. This tradition is not a set of pious platitudes or abstract generalities. It has intellectual substance, moral content, academic relevance. This requires more than encouraging service, as necessary and good as that is. Catholic social teaching can offer an ethical framework for learning, research, reflection, analysis, and action for this law school and the larger community. No student of this law school, given its mission, should leave without understanding our commitment to human life and dignity and knowing these principles.

Support the "Salt of the Earth": The defense of human life and dignity is the work of the whole community, not primarily the hierarchy. The leaders of the Church have their own responsibilities to share, apply, and act on this tradition, to preach and teach, to encourage and support. But, it is essentially the task of laywomen and men to learn, understand, and put these principles into practice. This is advanced not only by extraordinary acts of witness or service, but also by ordinary choices and commitments. The way most people advance this "agenda" is in our families and homes, in our work and profession, and in the tasks of citizen and neighbor. This law school has unique opportunities to encourage and prepare future lawyers to better integrate their knowledge and professional skills with the defense of human life and dignity.

Link Service and Action: This law school and this university have encouraged a practice and ethic of service. It's expected and sometimes required. The inter-disciplinary approach here at St. Thomas can move students not only to continue service of the vulnerable, but also to become skilled advocates for human life and dignity in the courts, the legislative arena, and the public square.

More than Elections: Politics is obviously more than an election every two or four years. In the current context, the consistent life ethic can leave many uncomfortable with the choices we face at election time. Some feel "politically homeless"—not comfortable or welcome in one party because of commitment to defense of the unborn and not fully comfortable in another party because of concerns about the war or the poor. There is a temptation to withdraw or retreat in frustration or cynicism. However, defenders of human life and dignity need to get more, not less, involved—running for office, supporting and working for others who share our values, working within electoral structures.

In addition, much can be done away from the stress and storms of electoral politics. We can work together across party and issue lines for policies that protect all human life and dignity. The archdiocesan "Voices

for Justice" legislative network, grassroots community organizations, Minnesota Citizens Concerned for Life, Bread for the World, Feminists for Life, and other groups provide vehicles in good times and bad to stand up for life and dignity. Outside of partisan politics, people can unite in common advocacy and challenge those who represent us, whatever their party, to defend life and dignity on a consistent basis.

Change the Culture: We need to change the culture—the way our society thinks about human life. We need to persuade, not just proclaim. I am personally convinced we will not prevail on abortion and euthanasia, we will not make progress on the death penalty or embryonic stem cells, we will not reshape the debate on war and peace, until we address together the lack of underlying respect for human life in our culture. When human beings are regarded as things, as collateral damage, as burdens on parents or society, then we should not be surprised the defense of life is "politically incorrect" or the work of "extremists."

Advocates of a "progressive pro-life agenda" must be in the forefront of those seeking to build a culture of life. We need to help build the new kind of public life called for by the U.S. bishops, with politics focused

- more on moral principles than the latest polls;
- more on the needs of the weak than the contributions of the strong; and
- more on the search for the common good than the demands of powerful interests.[35]

The Danger of Moral Equivalence and Dividing Life and Dignity: Some advocates (and some partisans) make no ethical distinctions between different issues of life and dignity. They seem to suggest that more than a million abortions a year has the same moral significance as cuts in the appropriations for the WIC (Women, Infants, and Children) feeding program. The direct and intentional destruction of innocent human life is always wrong. Abortion, euthanasia, and intentional targeting of civilians in warfare are intrinsically evil. They cannot be ignored or dismissed as just another issue. On the other hand, some dismiss or ignore other essential moral issues that are at the center of Catholic teaching such as war and peace, family life, economic justice, and the rights of workers. While these matters often require prudential judgments on how best to apply Catholic teaching, this reality does not render them unimportant or non-essential.

There are two dangers. One is to minimize abortion or euthanasia as just another issue among many others. The other is to dismiss as morally irrelevant other issues of life and dignity that have serious claims on the consciences of believers.

These distinctions are played out in many ways. Some speak of "non-negotiables"—abortion, euthanasia, the definition of marriage, cloning, and

35. *Faithful Citizenship*, *supra* n. 1.

embryonic stem cell research. I believe the language of "non-negotiables" is unfortunate. It comes across as more political than moral. These matters clearly are fundamental in Catholic teaching, but they do not exhaust the moral obligations of Catholics. As the Vatican "Doctrinal Note on Catholics in Public Life," released by Cardinal Ratzinger, points out:

> A well formed Christian conscience does not permit one to vote for a political program or an individual law which contradicts the fundamental contents of faith and morals. The Christian faith is an integral unity and thus it is incoherent to isolate some particular element to the detriment of the whole of Catholic doctrine. A political commitment to a single isolated aspect of the Church's social doctrine does not exhaust one's responsibility towards the common good.[36]

No Catholic can ignore the biblical calls to "choose life,"[37] care for "the least of these,"[38] to hunger and thirst for justice,[39] and to become peacemakers.[40] No Catholic can set aside major dimensions of the Church's moral and social teaching for partisan or ideological purposes. Defending human life *and* human dignity is "non-negotiable" for Catholics who take their faith seriously.

The Danger of Self-Righteousness: Confidence in strong convictions and moral principles can lead to arrogance and self-righteousness. It is important to resist the temptation to assume the worst, judge harshly, and even demonize those who do not share our convictions.

The Danger of Selective Orthodoxy: In my own experience in Washington, I often encounter people who support the bishops' strong and clear defense of unborn children as prophetic leadership, but see moral questions on the war or opposition to the use of the death penalty as just "politics." Others welcome the Church's advocacy on human rights, peace, and economic justice, but ask when will the Church get over the "obsession" with abortion. Consistency can require courage and resisting the temptation to shape our principles to fit our political preferences or gain the acceptance of others.

The bishops' *Faithful Citizenship* statement offers some other additional directions and dangers:

Political, Not Partisan: The new focus on religion and politics can be manipulated in cynical and partisan ways. It can be used to re-package the same old program of right and left. New words can mask old policies. Speaking personally, I sometimes find the "religious right" more right than religious. Where is the "least of these" in their agenda? I also wonder

36. Congregation for the Doctrine of the Faith, *supra* n. 3.
37. Deuteronomy 30:19 (New Am. Stand.).
38. Matthew 25:45 (New Am. Stand.).
39. Matthew 5:6 (New Am. Stand.).
40. Matthew 5:9 (New Am. Stand.).

about what I call "politically correct Christians" who will defend the eggs of endangered species, but not the lives of unborn children. There is a danger these days in being co-opted for partisan purposes, sounding like the Democratic Party at prayer or the religious caucus of the Republican Party.

The Church cannot be cheerleader for any particular candidate, chaplain for any party, or apologist for any administration. We need, in the words of our bishops, to strive to become a "community of conscience" which measures ourselves and "all candidates, policies, parties, and platforms by how they protect or undermine the life, dignity, and rights of the human person—whether they protect the poor and vulnerable and advance the common good."[41]

Principled, Not Ideological: This ethic calls for the defense of life and dignity whenever it is threatened. This is fundamental and can't be bargained away. But how life is best protected, how dignity can be best advanced in particular circumstances is often a matter of strategy, tactics, and judgment. There are several issues, but one message—the moral measure of policies is whether they protect or threaten human life, promote or undermine human dignity.

Civil, Not Soft: A community which calls for justice and charity in public policy should practice them in public life. This is a time for persuasion, not just proclamation. Civility and respect are not signs of weakness, but contributions to constructive dialogue. No position is advanced by impugning motives or calling names. Calling people "war criminals" or "baby killers" is probably not the best way to persuade. Relationships often matter more than press releases or lectures.

Engaged, Not Used: Photo-ops are no substitute for advocacy for policies that respect human life and dignity. Our institutions, forums, awards, and invitations should help us make *our* case for life and dignity, not serve as a platform for others to make their case. The new interest in faith-based institutions should offer new and better opportunities to share this mission and message.

V. Conclusion: A Model and a Task

Pope John Paul II is clearly approaching the end of his life and his leadership. Many are offering words of praise and admiration. For thirty years, he has been a model of principled engagement in defense of human life and dignity. We do not have his enormous gifts and responsibilities or his worldwide stage, but each of us has to find our own ways to stand up for human life and dignity. All the world knew where he stood on life and dignity, on war and peace. We saw him in Poland with Solidarity, in South Africa speaking against apartheid, at the Wailing Wall in Jerusalem praying for peace and calling the world's leaders to step back from the brink of war.

41. *Faithful Citizenship, supra* n. 1.

In our country, we remember him on the Mall in Washington insisting the measure of our nation is how we protect unborn life, at Yankee Stadium pleading for the poor of the world, in St. Louis calling us to be "unconditionally pro-life" as he asked us to join him in ending the use of the death penalty. He reached out to all, met with the faithful and the controversial, challenged saints and sinners. Our modest contribution to his legacy should be for each of us in our own small ways to follow his powerful example of defending human life and dignity persistently, courageously, and consistently.

This task is not new. This impressive gathering addresses an old and timeless task: "I have set before you life and death . . . . Choose life, then, that you and your descendants may live."[42]

42. Deuteronomy 30:19 (New Am. Stand.).

ARTICLE

THE CONSISTENT ETHIC OF LIFE

SIDNEY CALLAHAN, PH.D.*

Three central questions can be addressed in regard to the consistent ethic of life. First, what is it? Second, has the consistent ethic of life borne fruit within the Church? Third, will the consistent ethic of life influence American culture?

I. WHAT IS THE CONSISTENT ETHIC OF LIFE?

In the early 1980s, Joseph Cardinal Bernardin introduced and articulated a "consistent ethic of life" in a number of speeches and addresses that were published and widely noted.[1] He spoke of this ethic as a "seamless garment." Cardinal Bernardin gave his first lecture on the topic at Fordham University on December 6, 1983 and stated his purpose, "I am convinced that the pro-life position of the Church must be developed in terms of a comprehensive and consistent ethic of life."[2] He affirmed that he was "committed to shaping a position of linkage among the life issues."[3] At the beginning of his project, Cardinal Bernardin pointed to the example of the pastoral letter of the United States Conference of Catholic Bishops (USCCB) *The Challenge of Peace*.[4]

Cardinal Bernardin endorsed the bishops' effort to shape public policy debates, saying they were "following the model of the Second Vatican Council which called dialogue with the world a sign of love for the world."[5] Cardinal Bernardin's aim was to develop the linkage of life issues as a pastoral and public contribution. He analyzed a spectrum of life issues beyond war and abortion, and affirmed that there is a linkage between life issues such as the death penalty, euthanasia, poverty and welfare reform,

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1. Joseph Cardinal Bernardin, *Consistent Ethic of Life* (Thomas G. Fuechtmann ed., Sheed & Ward 1988). Ten speeches of Cardinal Bernardin are given here along with his response to a symposium on the consistent ethic of life held at Loy. U. of Chi. on Nov. 7, 1987. Because the different speeches were to different audiences, there was a great deal of repetition of ideas.

2. *Id.* at 2.

3. *Id.*

4. *Id.* at 3-4.

5. *Id.* at 3.

health care, civil rights, and pornography. As he said, "The theological foundation of the consistent ethic [of life] . . . is [the] defense of the person."[6]

In his addresses, Cardinal Bernardin said that he wished to initiate a dialogue in the Church and within public life. He asked for responses and further development of the consistent ethic of life, with the request that arguments and differences of opinion be voiced with charity and civility. Cardinal Bernardin went on to say that "we should test everyone's logic but not question his or her motives."[7]

Historians will judge whether the responses and criticisms that Cardinal Bernardin received met his own unfailing standards of civility, humility, and charity. As he continued to explicate his vision and civilly answer objections from different sources, his thinking developed.

To meet the criticisms of those who thought that the Church should focus on abortion and not dilute this most crucial pro-life effort, Cardinal Bernardin explained that, of course, a foundational consistent ethic of life must sometimes set practical priorities and take account of distinctions between life issues.[8] Different concrete situations and different levels of each pro-life cause exist and must be taken into account.[9] Expertise in working toward solutions will differ when it comes to complex matters such as peacemaking, or abortion, or the welfare of the poor.[10] People can rightly have different vocations in their advocacy of different life issues.[11] As he said, "No one is called to do everything, but each of us can do something."[12]

Cardinal Bernardin also recognized that obtaining support for an effective constituency promoting a consistent ethic of life would be difficult in America's pluralistic society.[13] The challenge of consistent ethic adherents is "to test party platforms, public policies, and political candidates."[14] The 2004 presidential election was a tutorial for the American Church on the difficulties of judging candidates and parties on the full spectrum of life issues. Catholic voters were divided, as were their bishops.

Today, after the election, advocates of a consistent ethic of life can reexamine its fundamental character and application. New moral controversies over life issues have emerged regarding justifications of pre-emptive war, stem cell research, the use of torture, and end-of-life treatment for the ill and brain-damaged. Again, it is necessary to restate Cardinal Bernar-

6. *Id.* at 89.
7. *Id.* at 10.
8. *Id.* at 15.
9. *See id.*
10. *See id.*
11. *See id.*
12. *Id.* at 15.
13. *Id.* at 10.
14. *Id.* at 18.

din's fundamental basis of the ethic as the truth that "human life is both sacred and social."[15] The traditional Catholic moral principle that guides the linkage of nuclear policy and abortion in *The Challenge of Peace* pastoral letter "prohibits the directly intended taking of innocent human life."[16] Civilian populations in cities cannot be targeted by nuclear weapons and fetal life cannot be directly destroyed.[17]

In the Catholic ethical tradition the presumption is against taking life, although in a fallen and sinful world, exceptions have been made for self-defense, just war, or capital punishment in defense of society. Cardinal Bernardin noted that these traditional exceptions have narrowed since the reforms of Vatican II.[18] Pope John Paul II's teaching on the death penalty in modern conditions made it all but impermissible, and the National Conference of Catholic Bishops has taken a policy position against capital punishment.[19] But on other life issues, the challenge of technology and what can now be done has produced new moral crises for society. The questions, as Cardinal Bernardin stated them, are: "In an age when we *can* do almost anything, how do we decide what we *should* do? In a time when we can do anything *technologically*, how do we decide *morally* what we should not do?"[20] Even in the face of a nuclear attack by an enemy, no counterattack on cities should be launched.[21] Certain assaults on the dignity of human life in new reproductive technologies cannot be countenanced.[22] A consistent ethic of life will be based on certain bedrock moral principles.[23] A Christian can never do evil to achieve good.[24]

Today, after two decades, the consistent ethic of life articulated in the 1980s is still alive and still developing. The "seamless garment" has been inspiring and guiding peace and justice advocates through tumultuous events. The world has seen the end of the cold war, the advent of two Gulf wars, many small military engagements, and several horrendous genocides. Nuclear weapons still exist and are proliferating. In domestic affairs the question of abortion has become ever more bitterly contested, and other social conflicts have arisen over a spectrum of life issues. Those living in poverty, along with their children, have less social support and less access to health care. The provision of Social Security for the elderly is threatened

15. *Id.* at 88.
16. *Id.* at 7-8.
17. *Id.* at 8.
18. *Id.* at 5, 89.
19. *Id.* at 6.
20. *Id.* at 89.
21. *Id.* at 8.
22. *See id.* at 89.
23. *See id.* at 78.
24. *Catechism of the Catholic Church: Modifications from the Editio Typica* Nos. 1757-61 (2d ed., U.S. Catholic Conf. 1997) [hereinafter *Catechism of the Catholic Church*].

and millions of uninsured Americans lack adequate health care. Basic education is not equally available for the poor.

Controversies over the relationship of religion and politics have taken on a new intensity. Catholic advocates of the consistent ethic of life are challenged to reexamine its religious roots in order to effectively relate to others of different beliefs in non-religious terms.[25] For Roman Catholics, the consistent ethic of life can be seen as an embodiment of the core commandment of Christian morality: to love one's neighbor as one's self. The Golden Rule is expressed in different ways in the Gospels but always requires treating another as you would wish to be treated. Love of neighbor commands that you must do unto others as you would have them do unto you.

The meaning of love in the Christian tradition includes broad dimensions and is never narrowed to its emotional experiential character. Love as charity includes acts of mind and heart as well as behavioral efforts. It includes just and beneficent action and goodwill toward all. Pope John Paul II stated, "By itself, justice is not enough. Indeed it can even betray itself, unless it is open to that deeper power which is love."[26] In the tradition of the Hebrew prophets, Christianity considers faith without works to be dead and love to be united with justice. Always Christian love presupposes and transcends justice.

Consequently, Christians in their love of neighbor will be committed

1. to do no harm;
2. to relieve human suffering of every kind by appropriate works of mercy;
3. to affirm the equal moral value and dignity of each human life regardless of race, gender, class, health, wealth, power, or moral condition;
4. to strive for the development and flourishing of the human community to achieve a "civilization of love" and "a culture of life" as proclaimed in Church social doctrine.[27]

In addition, the Catholic moral vision of equal justice and charity for all assumes that there can be no body-self dualism and that no human life exists that is not interdependent with others.[28] Catholics have affirmed that all goods, like all persons, are interdependent, since all human beings are related to one another as members of God's family. What harms one, di-

25. Bernardin, *supra* n. 1, at 10.

26. Pontifical Council for Just. & Peace, *Compendium of the Social Doctrine of the Church* No. 203, 90 (U.S. Conf. of Catholic Bishops 2005).

27. *Id.* at No. 103, 46; Pope John Paul II, *Evangelium Vitae* Nos. 27-28 (available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html#top) (accessed Jan. 23, 2006).

28. Patrick Lee & Robert P. George, *Dualistic Delusions*, 150 First Things 5-7 (Feb. 2005) (available at http://www.firstthings.com/ftissues/ft0502/opinion/george.htm); Pontifical Council for Just. & Peace, *supra* n. 26, at No. 149, 65.

minishes all, and all are equally valuable. Human groups will flourish together as a whole, and specific evils will weaken the well-being of the whole community. Moreover, in working for the common good and the coming of God's kingdom on earth, human persons must use only moral means.[29]

Can all of the above Christian beliefs and moral commitments be included and integrated in the consistent ethic of life? The answer, I think, is yes. Love and the dimensions of just compassion for one's neighbor constitute the different issues on the spectrum of life, bound together in a unity. Roman Catholics can see the different and distinct life concerns of the spectrum as indications of the width, depth, and breadth of Christ's love for the world, which is unfailing and ever present. In Christ all things created are held together in love, justice, and truth.

In the Christian vision of a consistent ethic of life, more meaning is present than can be conveyed by abstract principles. The ethic, which is founded on love and justice, also can be seen as an imaginative framing metaphor that synthesizes many convergent strands and elements of Christian truth. The work of George Lakoff and Mark Johnson on the power of metaphor to frame thought and action applies to Christian ethics and morality.[30] Metaphors used in human thinking and imagination give meaning to life. Feelings as well as behavior are implicitly present in metaphors, which condense and integrate different elements and shape the way the world is perceived. Human beings live and die by metaphors.

In the realm of ethics and morality, moral commitments always consist of many elements beyond rational principled argument. Humans possess many characteristic operating capacities that complement logical reasoning, such as emotion, imagination, memory, and innate and learned behavioral predispositions. Moral reflection and decision making integrate abstract reasoning and adherence to principle with other forms of experiential knowledge infused with emotional feelings.[31] Moral decisions are made in response to what has been called "ethical pull," and moral obligations are felt to be overriding in their demands.[32] What one ought to do is driven by the internal force of conscience, the unique capacity of humans.

In sum, the consistent ethic of life condenses and frames the Christian love commandment as well as reason's requirement of logical consistency in the application of principle. One assents to the moral reasoning with the mind, experiences it in the heart, and is pulled into action.

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29. *Catechism of the Catholic Church*, *supra* n. 24, at Nos. 1905-10.

30. *See* George Lakoff, *Moral Politics: How Liberals and Conservatives Think* 4-7 (2d ed., U. Chi. Press 2002); *see generally* George Lakoff & Mark Johnson, *Metaphors We Live By* (U. Chi. Press 1980).

31. *See* Sidney Callahan, *In Good Conscience: Reason and Emotion in Moral Decision Making* 63-143 (HarperSanFrancisco 1991).

32. A.R. Lacey, *Robert Nozick* 88 (Princeton U. Press 2001).

An earlier subtle description of the way persons come to give assent and morally commit themselves can be found in John Henry Newman's *Grammar of Assent*.[33] Newman analyzes the way that a pattern of arguments, evidence, counterevidence, and intuitions come together to form a unified conviction.[34] The resultant belief and commitment can be likened to a strong rope made up of woven strands that fit together. A coherent unity is discovered to comprise a diversity of elements; a whole emerges as more than the sum of its parts. The rope can be depended upon because of the presence of varying elements that can be examined and found to be sound and pertinent. Present-day philosophers of science also understand that theories gain validity as they are supported by unified patterns of convergent and divergent evidence, comprising argument and counterargument, that hold together in an integrated whole that includes intuitive assent of the tacit dimensions of persons.[35]

Cardinal Bernardin aimed to demonstrate the integrated coherent unity underlying all pro-life issues, even though he did not speak of framing metaphors or integrated patterns of convergent and divergent moral strands of emotionally infused reasoning. The "seamless garment" image is a metaphor that points to indivisible unity. This image may not always have had its desired public effect since so many individuals in a biblically illiterate world might not understand the scriptural reference to the seamless robe of Christ worn to his crucifixion. The Roman soldiers decided not to divide the garment but to cast lots for it.

Whether or not the scriptural image of the seamless garment resonates with persons, the concept of consistency appeals to almost all adults. In fact, according to a great deal of psychological research, there is an innate drive toward consistency in human beings; it provides motivation for changes in behavior or attitude.[36] On becoming aware of inconsistency or dissonance or a lack of equilibrium, persons will seek to restore internal and social consistency.[37] This means that rationally functioning persons can easily respond to the ideal of a coherent, comprehensive, and rational consistent ethic of life. Consequently, Cardinal Bernardin was right to address American society at large with his vision and not just the Christian faithful. In doing so he also was expressing an optimistic Catholic belief that valid moral reasoning of the natural law can persuade people of good will. The consistent ethic of life should be all the more accepted, Cardinal Bernardin

33. *See generally* John Henry Newman, *Grammar of Assent* (Doubleday & Co., Inc. 1955).

34. *Id.* at 253-54.

35. *See* Abraham Kaplan, *The Conduct of Inquiry: Methodology for Behavioral Science* § 36, 311-22 (Chandler Publg. Co. 1964).

36. *See generally* Leon Festinger, *A Theory of Cognitive Dissonance* (Stan. U. Press 1957).

37. Elliot Aronson, *The Theory of Cognitive Dissonance: A Current Perspective*, in *Advances in Experimental Social Psychology* vol. 4, 2-32 (Leonard Berkowitz ed., Academic Press 1969); *see also* Anthony G. Greenwald et al., *A Unified Theory of Implicit Attitudes, Stereotypes, Self-Esteem, and Self-Concept*, 109 Psychol. Rev. 3 (Jan. 2002).

thought, in an America that is itself dedicated to equal human rights and justice for all. Catholics could lead the way forward in their articulation of the life ethic.

II. HAS THE CONSISTENT ETHIC OF LIFE BORNE FRUIT WITHIN THE CHURCH?

At this point there is not enough evidence to definitively assess the influence of the consistent life ethic among Catholics. My impression is that acceptance of a coherent, linked pro-life vision is uneven. I would guess that greater awareness and commitment to consistent-life thinking could be found in specialized groups of Catholic activists, intellectuals, academics, and theologians. Before turning to some positive developments in the influence of the consistent ethic of life, it is important to speculate on why there has not been more. Why not more popular response to systematically linking the different life issues?

Too often there seems to be a separation between groups in the Church that focus upon worship, devotion, and personal sanctification, and other groups committed to the social gospel teachings of the Church on peace and justice. The different sets of persons tend to operate on separate paths and are drawn to different kinds of action and advocacy. The impression can be gained that many American Catholics are unresponsive to the pro-life issues that focus upon the social gospel and the creation of a just society. Why might this be so? Certainly, all practicing Catholics readily acknowledge the core Christian belief that love of God entails love of neighbor; the Golden Rule and the linking of the vertical and horizontal in the faith has been preached consistently. But love of neighbor can be understood as referring to private individual activity rather than to any collective or public social obligation. Many of the parables in scripture used in weekly worship refer to individual acts of charity or to individual lapses and sins.

Moreover, individual actions are clearly visible to all. Persons feel that they and others can control their behavior; thus personal responsibility for private behavior is immediately understandable as an everyday experience. Moral judgments on failures of self-regulation are familiar territory. Catholics can see that the pro-life teachings on abortion, euthanasia, assisted suicide, and pornography concern individual moral acts of conscience and individual responsibility.

By contrast, the pro-life justice and peace issues of the consistent ethic involve assessing large systems and social institutions. These are less easy to comprehend and morally judge. Most people are not trained to think in terms of social systems or interacting structures that operate to shape their environments and limit options.[38] As the cliché goes, the last thing a fish

38. *See* Zenobia Fox, *An Unfolding Reality Affects All Systems*, http://www.nplc.org/commonground/papers/zeni2005.htm (accessed Sept. 16, 2005).

would discover is water. Bias and prejudice may exist in persons beneath conscious awareness.[39] The status quo can seem to be an inevitable reality; alternative social arrangements are hard to imagine. Actions of governments, organizations, or corporations are often hidden from scrutiny. With large institutions it is hard to see the effects of policies on the welfare of many people. Because of bureaucratic size and complexity, it is also difficult to hold leaders and institutions accountable for the effects of their actions.

Questions involving the morality of war or the state's use of the death penalty are complex issues that can require expertise to analyze and criticize effectively. A society's responsibility for the health and welfare of its citizens and its poor and vulnerable members is another complex goal that is difficult to comprehend or work toward. Racism and sexism and other issues involving bias, equal rights, and social justice present difficult problems whose solutions are unclear. The direct causes and effects of community actions and policies are hard to pin down. Even when a correct analysis can be reached, it is not always obvious what any individual citizen's moral obligation should entail. Few people possess the organizing skills necessary for confronting large operating systems. Labor unions once provided many Catholics with these tools of social action, but today Catholics have become more middle class and unions have lost much of their educational relevance. Democratic processes are further weakened by society's mobility and economic insecurity.

Morally, it is easy to observe and understand what is involved in a personal act that directly harms another person. It is far harder to discern how lack of action or apathy toward deficient public policies can harm many others. Psychological research has found that human beings automatically pay attention to the individual who moves and acts in a setting rather than to the background environment.[40] Individuals stand out as salient figures in a situation and observers tend not to notice the background, baseline information or the constraints of the environmental context.[41] Consequently, when habitual social norms and practices embody injustice or bias they can be easily overlooked.[42] In the same way, active sins of commission are more accessible to awareness and are more clearly noted than sins of omission. We don't notice what isn't there; absence, silence, and deficits do not capture attention.

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39. *See e.g.* Timothy D. Wilson, *Strangers to Ourselves: Discovering the Adaptive Unconscious* 3, 10-12 (Harv. U. Press 2002).

40. *See generally* Fritz Heider, *On Perception and Event Structure, and the Psychologic Environment: Selected Papers* (Intl. U. Press 1959); Richard E. Nisbett & Lee Ross, *Human Inference: Strategies and Shortcomings of Social Judgment* (Prentice-Hall 1980).

41. *See generally* Heider, *supra* n. 40; Nisbett & Ross, *supra* n. 40.

42. *See generally* Anthony G. Greenwald et al., *A Unified Theory of Implicit Attitudes, Stereotypes, Self-Esteem, and Self-Concept*, 109 Psychol. Rev. 3 (Jan. 2002).

On the other hand, the inherent complexity (arising from the large number of variables and amounts of information) involved in large social problems creates noise and distraction. Confusion and overload can impede moral analyses. The uncertainty and unclear probability of outcomes make it difficult to reach moral judgments. It is also hard to determine which actions and policies will actually bring about better outcomes. Arguments over welfare policies, provisions for universal health care, marriage and family policies, and what constitutes a "just war" are examples of the way complexity and uncertainty can affect moral analysis. It is easier to know what will hurt or extinguish the life of another than what will make him safe, secure, and happy—or happy enough.

Certain critics of Cardinal Bernardin's consistent ethic of life claimed that he was too simplistic in his use of the traditional moral teachings of the Church in prohibiting "the direct killing of the innocent."[43] Such thinkers considered absolute moral prohibitions too narrow, especially against abortion.[44] The moral reasoning applied to abortion seemed to them inconsistent with the more flexible, empirical way Church teaching deals with social justice, economic questions, and just war. This criticism of the lack of consistency in ethical analyses of the different pro-life issues can be a useful caution.

But the objections to using different approaches to different moral problems can be countered by noting the above-mentioned differences inherent in what is to be decided. Evaluating issues of collective responsibility versus those of individual responsibility changes the amount of complex variables to be taken into account. The presence of different amounts of uncertainty can make a difference in the use of appropriate reasoning. Yet, liberal critics of the Church's absolute moral prohibitions might revise their leanings toward a more tentative, consequentialist approach now that American society is facing more numerous justifications for doing evil to obtain good. Today, public officials in the U.S. justify the use of torture or unilateral pre-emptive war to achieve goals.[45] Some philosophers, following Peter Singer, can advocate the infanticide of imperfect babies in the first days after birth, with the decision left to parents who may wish to replace the child with another pregnancy.[46]

Arguments against a slippery slope are not logically convincing in theory, but in practice, the conditions of social life and group influence make worries about a downward slide realistic. This downward slide is brought about by the dulling of emotional sensibilities and the power of precedence,

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43. Bernardin, *supra* n. 1, at 81; *see also* Richard A. McCormick, S.J., *The Consistent Ethic of Life: Is There an Historical Soft Underbelly?*, in Bernardin, *supra* n. 1, at 96.

44. *See generally* McCormick, *supra* n. 43, at 109-20.

45. *See generally e.g.* Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton U. Press 2004).

46. Peter Singer, *Writings on an Ethical Life* 186-93 (Fourth Estate 2000).

conformity, and habitual practice. I once heard a prominent advocate of assisted suicide, Dr. Timothy Quill, admit that he would not use the same care in his fourteenth case as he did in his first. What begins as an exception quickly becomes routine. Deviance is defined through emotional and social habituation. Bright lines of defense are breached by emotional and behavioral attitude changes, not by logical argument.

Absolute prohibitions may have an important role in a society's moral well-being. Even taboos have their uses, as in the taboo against incest. In fact, it could be argued that earlier Church accommodations to the role of state-sponsored killings and advocacy of just war theory were too flexible and should be amended. The Church's move away from capital punishment is a positive example of moving toward a more stringent prohibition against the taking of life. Of course, this change may also have been furthered by the many proven and publicized miscarriages of justice in which innocent persons have been executed. More to the point, in proclaiming a consistent ethic of life, it seems inconsistent to kill in order to stop killing. State-sanctioned violence in order to end violence is contradictory and counterproductive.

Yet until very recently, American Catholics have not been leading protests and demonstrations against war and capital punishment. Perhaps patriotism and trust in the government and its legal authority is one factor, along with the uncertainty induced by the complexity of large issues. But, beyond complexity, there lurks the question of whether an individual life is considered innocent or guilty. In justifying war or the death penalty, proponents assert that the direct attack on life is not upon the certifiably innocent. Criminals, dictators, and totalitarian regimes engage in evil aggressive acts that harm others. In abortion and other life issues, however, the lives at stake are clearly innocent. Fetal life and a brain-damaged young woman are not aggressors. Emotional sympathy is easily aroused to protect them. A positive emotional response to the fate or status of evildoers is much more difficult to muster. Love and justice for enemies who are seen as equally God's creatures comes hard.

As usual in the evolution of Church teachings, things that are implicit in the Gospel later become explicit, as processes of discernment go deeper. New meanings of God's revelation to humankind arise from increased understanding of scripture and secular knowledge. Implications and extensions of moral obligations are drawn forth from traditionally handed-down revealed sources. When more distinctions are made and corollary truths apprehended, then doctrine evolves. Catholics have faith that the Holy Spirit guides the Church toward a fuller understanding of God's will. The prayer for God's kingdom to come on earth can be seen to demand ever-new practices and obligations. With the passage of time, cultures and environments change, new discoveries and technologies appear, and the Church reads the signs of the times with new wisdom. In the Second Vatican

Council, many newly realized insights into the faith were articulated and new efforts inspired.[47]

Gospel commands of Jesus to love one's enemies and his forgiveness of sinners have become more clearly appropriated. Christ's commitment to nonviolent methods of overcoming evil through love has returned to the forefront of Christian memory.[48] Belief in God's love for all human creatures made in the image of God inspires the acceptance of the equal moral dignity of all humans, including sinners and enemies. To love the sinner and treat him with justice and charity has been a difficult lesson to learn. The urge to use violence and aggression to punish offenders is a deep-seated and powerful human drive. The need to enforce rules through punishment served group survival in evolving human groups.[49]

Christians, despite Christ's teachings and example, have been slow to accept that God's mercy, justice, and charity are united and that vengeance is reserved to the Lord while forbidden to human disciples. Christ as the Prince of Peace returned love for hate, refusing to take an eye for an eye. Alas, it was not too many centuries ago that the Church could call for crusades against enemies and heretics, endorse the use of torture in the Inquisition, and permit horrible executions such as burnings at the stake. While modern, developed countries have given up such practices, popular American media still glorify the heroic avenger who employs violence against evildoers. Influenced by American culture and the Church practices of the past, many Catholics will resist the consistent ethic of life's call for peacemaking and for nonviolent solutions. The development and promulgation of the social gospel is a relatively new phenomenon in the Church.

Other Catholics who have been sensitized to the way systems and social structures grind people down and create conditions of suffering are more responsive to the peace and social justice issues in the consistent ethic of life teaching. Often these are educated Catholic academics, theologians, and public intellectuals who have been exposed to the new theological understandings of "social sin."[50] Understanding the power of environmental conditioning and economic constraints can make an observer focus on the pro-life ethic's struggle for justice as a priority. Liberation theologies of justice, taking into account the poverty and inequality of the world, can show how the causes of human suffering are tied to unjust economic exploitation and oppressive class systems.[51] The vulnerable, the poor, the

47. Gregory Baum, *Amazing Church: A Catholic Theologian Remembers a Half-Century of Change* 7, 10 (Orbis Books 2005).

48. *See generally* Ira Chernus, *American Nonviolence: The History of an Idea* (Orbis Books 2004).

49. *Evolutionary Origins of Morality: Cross-Disciplinary Perspectives* 68-69 (Leonard D. Katz ed., Imprint Academic 2000).

50. Pontifical Council for Just. & Peace, *supra* n. 26, at Nos. 118-19, 53-54.

51. *See generally e.g.* Walter J. Burghardt, S.J., *Justice: A Global Adventure* (Orbis Books 2004).

handicapped, women and children suffer when the survival of the fittest is justified in competitive market systems.[52] Often when observers are focused upon powerful, oppressive social systems, other pro-life concerns about abortion, euthanasia, and sexual immorality can be seen as secondary symptoms of much larger and more fundamental problems.

Prophetically, the consistent ethic of life challenges all the different groups in the Church to unite in common Christian concerns. Not coincidentally, Cardinal Bernardin also founded the Common Ground Initiative to bring together different conservative and liberal elements in the Church.[53] The goal of both the Initiative and the consistent ethic of life is to integrate and meld the different streams and idealism of the rich Catholic tradition. Faithful to this common heritage, the American bishops have pursued inquiry and issued statements on the whole range of different pro-life issues, from peace, to welfare rights, to health care reform, to abortion, to capital punishment and end-of-life issues. In the last election campaign the USCCB authored *Faithful Citizenship*, a statement that advocates the consistent ethic of life to serve the common good.[54] The bishops enjoined Catholics to make prudent choices of conscience.

Also, the USCCB has created a "Respect Life" campaign built on the consistent ethic that tries to defend the value and sacredness of human life from conception to natural death.[55] The strategy is to integrate and unify the different pro-life issues by framing them in the narrative of the human life cycle from womb to tomb. The underlying unity of justice and charity for all is demonstrated by defending the dignity of persons at different periods of development under different conditions. Consistency through time is stressed. Thinking about the different needs within the life cycle can tie pro-life issues together; human interdependence is obvious when thinking about the beginning and the end of life, which is sustained by families and communities of care.

Other movements in the American Church also carry forward Cardinal Bernardin's pro-life agenda in various ways. These different movements make various links among the pro-life issues and can be organized into four main categories.

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52. *Id.*

53. *See generally* Joseph Cardinal Bernardin & Archbishop Oscar H. Lipscomb, *Catholic Common Ground Initiative: Foundational Documents* (Crossroad 1997); National Pastoral Life Center, *Catholic Common Ground Initiative*, http://www.nplc.org/commonground.htm (2005).

54. *See* U.S. Conf. of Catholic Bishops, *Faithful Citizenship: A Catholic Call to Political Responsibility*, http://www.usccb.org/faithfulcitizenship/faithfulcitizenship03.pdf (2003).

55. *See generally* U.S. Conf. of Catholic Bishops, *Respect Life Program*, http://www.usccb.org/prolife/programs/rlp/index.htm (2005).

1. Peace and Justice Groups

As the U.S. has initiated more military interventions and large-scale wars, the peace and justice movements in the Church have increased in activity.[56] Groups such as Pax Christi have taken stands and protested the government's military policies and its allocation of money to defense rather than to education, health care, poverty relief, or toward forgiving third-world debt.[57] The current Iraq war has been protested along with the government's justifications of pre-emptive war and unilateral action. Demonstrations against the use of torture and unjust anti-terrorist measures have become more attended.[58] Many Catholic activists continue to be arrested and jailed in their struggle against U.S. government policies of violence.[59] Secret operations that have supported Central and South American totalitarian regimes have been publicized and deplored.[60] Other peace activists have gone on missions abroad to areas of conflict in their peacemaking efforts. Dioceses and religious orders have peace and justice offices whose members work for the social gospel in local and national campaigns. Networks of Catholic groups lobby state legislatures as well as Congress. A group such as The Catholic Peace Fellowship also seeks to encourage resistance to war in addition to providing counseling and support for conscientious objectors.[61] Many Catholic universities have started programs and institutes in peace studies and peace education.[62] Such work brings Catholics together with other religious and secular peace organizations. An example of these trends can be seen in the fact that two young American Jesuits dedicated to peacemaking have respectively served in leadership positions with the Fellowship of Reconciliation and The War Resisters League.[63]

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56. *See generally* Catholic Peace Fellowship, *Welcome to Catholic Peace Fellowship*, http://www.catholicpeacefellowship.org (2005) (the Catholic Peace Fellowship has been formed and cooperates with other groups); The Catholic Worker Movement, *Catholic Worker Movement*, http://www.catholicworker.org (last accessed Sept. 10, 2005) (also active in antiwar campaigns); Pax Christi USA, *Pax Christi USA*, http://www.paxchristiusa.org/index.asp (2005) (Pax Christi USA has sponsored many action alerts and demonstrations).

57. *See* Pax Christi USA, *supra* n. 56.

58. *See generally e.g.* James Hodge & Linda Cooper, *Disturbing the Peace: The Story of Father Roy Bourgeois and the Movement to Close the School of the Americas* (Orbis Books 2004).

59. *See id.*

60. *Id.*; *see generally e.g.* Daniel Berrigan, *Testimony: The Word Made Fresh* (Orbis Books 2004).

61. *See* Catholic Peace Fellowship, *supra* n. 56.

62. *See* U. of Notre Dame, *The Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame*, http://www.nd.edu/~krocinst/research/jinjaconf.html (last updated July 16, 2004); *see also e.g.* The Peace and Just. Stud. Assn., *Peace and Justice Studies Association*, http://www.peacejusticestudies.org/ (2005).

63. John Dear, S.J. served as the National Coordinator of the Fellowship of Reconciliation, http://www.forusa.org/ (accessed Oct. 18, 2005); Simon Harak, S.J. currently is at The War Resisters League, War Resisters League, *WRL Employment*, http://www.warresisters.org/employment.htm#simon (last updated Sept. 9, 2005).

Catholic peace groups also move toward a consistent ethic of life by linking the cause of peace with justice. As the maxim goes: if you want peace, work for justice. Pax Christi and other Catholic peace organizations take stands on justice issues with increasingly comprehensive perspectives.[64] Concerns for ethnic groups, immigrants, and exploited workers are related to protests against the exploitative practices of global corporations. Economic issues such as third-world debt are seen as related to the injustice and exploitation of the poor that creates violence and war. Links between the violence in the media and the violence of war are analyzed and protested. Other nonviolent vigils and campaigns against capital punishment are initiated and linked to the cause of peace.

The rejection of violent means to obtain a desired end links many of the activities of the peace and justice movements. A new understanding of the link between the violence of abortion and the violence of the death penalty is emerging in the American bishops' new campaign against capital punishment.[65] Polls among Catholics seem to show that approval of the death penalty is decreasing.[66] Despite the unevenness of the acceptance of different pro-life commitments, there are signals of progress for the consistent ethic of life.

2. *Feminists and Rights Groups*

Feminists within the Church, sometimes calling themselves "gospel feminists," have taken up the cause of the consistent ethic of life by defending the equality of persons in relation to gender bias.[67] Justice and charity are consciously fused in demands for "just care" or "compassionate respect" for all.[68] The Catholic call for equal rights for all persons has motivated protests against the inequality of women in society and in decision-making roles in the Church's leadership. From its beginning, the gospel feminists' commitment to equality and flourishing of women has been linked to justice for the poor, the vulnerable, and for all those oppressed by the logic of domination.[69] Women's welfare has been directly linked to the Church's social gospel and preference for the poor and powerless, since women are so often both. The Church's preaching of the social gospel is seen as crucial to the achievement of women's and men's well-being.[70] Women need

64. Pax Christi USA, *supra* n. 56.

65. *See e.g.* Neela Banerjee, *Bishops Fight Death Penalty In New Drive*, N.Y. Times A19 (Mar. 22, 2005) (available at 2005 WLNR 4396192).

66. *Id.*

67. *See generally e.g.* Mary Catherine Hilkert, *Feminist Theology: A Review of Literature*, 56 Theological Stud. 327 (1995).

68. *See generally* Margaret A. Farley, *Compassionate Respect* (Paulist Press 2002).

69. Elizabeth A. Johnson, *She Who Is: The Mystery of God in Feminist Theological Discourse* 31-32 (Crossroad 1992).

70. *See generally* Anne E. Patrick, *Toward Renewing "The Life and Culture of Fallen Man": Gaudium et Spes as Catalyst for Catholic Feminist Theology*, in *Readings in Moral Theology No.*

access to health care, support for their children, equal economic opportunities, and support in old age. Christian feminists have recognized clearly that the welfare of women and the welfare of families are inseparable.[71]

Many Catholic feminists have also been active in the movement against abortion and in calling for support for nonviolent alternatives on behalf of unborn life.[72] Catholic women have been instrumental in starting and supporting new groups such as Feminists for Life who are "Pro-Woman, Pro-Life."[73] The group opposes "all forms of violence, including abortion, infanticide, child abuse, domestic violence, assisted suicide, euthanasia and capital punishment."[74] They support equality and just solutions that focus on education, outreach, and advocacy for women in need. Groups such as Women Affirming Life and other volunteer groups of women work to provide pregnancy care and alternatives to women and their children.[75] Feminists have understood that life is interdependent and that power and domination oppress many sectors of the population. A group such as the Feminism and Nonviolence Studies Association tries to further the analysis underlying pro-life actions.[76] Feminists also have led the way in the just ordering of family life that counters domestic abuse.[77] In feminist analyses, power is defined as enabling power and nurturing power, not as power that coerces and dominates.[78] Power with and through others is not the same as power over others.

The values of Christian feminists are linked to the different issues in the consistent ethic of life. Women must work for peace since war destroys women, children, and all living things. Rape in war is also a feminist and peace concern.[79] So too, justice is sought by feminists for women as well as for others who suffer from prejudice and oppression, such as gay and lesbian persons. Feminists have led the way in global and ecological con-

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9: Feminist Ethics and the Catholic Moral Tradition 483 (Charles E. Curran, Margaret A. Farley, & Richard A. McCormick, S.J. eds., Paulist Press 1996).

71. *See generally* Lisa Sowle Cahill, *Sex, Gender & Christian Ethics* (Cambridge U. Press 1996).

72. *See generally e.g.* Sidney Callahan, *Abortion and the Sexual Agenda: A Case for Prolife Feminism*, 123 Commonweal 232 (Apr. 25, 1986).

73. Feminists for Life of Am., *Feminists for Life of America*, http://www.feministsforlife.org (2004).

74. Feminists for Life of Am., Brochure, *What Women Really Want* (D.C. 2000) (available at http://www.womendeservebetter.com/cop/kits/wwrw.pdf).

75. *See e.g.* Birthright Intl., *Birthright International*, http://www.birthright.org (2003); Women Affirming Life, *Women Affirming Life*, http://www.affirmlife.com (2005).

76. Feminism & Nonviolence Stud. Assn., Inc., *FNSA Mission*, http://www.fnsa.org/mission.html (last updated Oct. 22, 1999).

77. *See generally* Christine E. Gudorf, *Body, Sex, and Pleasure: Reconstructing Christian Sexual Ethics* 160-204 (The Pilgrim Press 1994).

78. Riane Eisler, *The Chalice & The Blade: Our History, Our Future* 192-93 (Harper & Row 1987).

79. *See* Mia Nussbaum, *Of Rape and War*, 4.1 The Sign of Peace 24 (Winter 2005).

cern for life.[80] Many feminists, identifying as "ecofeminists," link spiritual renewal and the survival of all life on our endangered planet.[81]

3. *Reform Movements within the Church*

The consistent ethic of life asserts the Christian adherence to the inseparability of justice and love in a spectrum of pro-life issues. The advocacy of the social gospel stressing equality and universal human rights in international affairs has inspired reform movements for rights within the Church. The struggle, in light of these movements, has been to practice the collegiality called for by Vatican II. Consistency is sought between the Church's preaching of universal rights in the world and rights of the laity and all the people of God within the Church. Justice through internal institutional reforms is demanded. The dreadful sexual abuse scandals that have beset the American Church are considered to be symptoms of failure to consistently uphold Gospel teaching.[82] It is also pointed out that the Church loses credibility in its efforts to preach the protection of the unborn when it remains uncommitted to protecting children from harm.[83] The growing demands for institutional reforms have found expression in many different reform groups that have grown in size and influence. Here we can mention VOTF, ARCC, Future Church, Call to Action, and other Church reform groups.[84] There is an overlap between these Church reform groups and feminist and peace groups.

4. *Groups Dedicated Explicitly to Consistency*

Although small in numbers, a few groups have focused directly upon the *consistency* of the consistent ethic of life as their mission. While all the movements and groups described above have supported a spectrum of pro-life causes, groups such as Consistent Life (formerly Seamless Garment Network) have dedicated themselves to advocating the unifying commitment underlying all of them. Consistent Life describes itself as "an international network for peace, justice and life."[85] The network includes many

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80. *See generally* Elizabeth A. Johnson, *Women, Earth, and Creator Spirit* (Paulist Press 1993).

81. *See* Center for Women, the Earth, the Divine, *The Center for Women, the Earth, the Divine*, http://www.cwed.org/ (last updated July 23, 2005).

82. *See generally Governance, Accountability, and the Future of the Catholic Church* (Francis Oakley & Bruce Russett eds., Continuum Intl. Publg. Group 2004).

83. *See* Thomas J. Reese, S.J., *The Impact of the Sexual Abuse Crisis*, in *id.* at 144.

84. *See* Assn. for the Rights of Catholics in the Church (ARCC), *Association for the Rights of Catholics in the Church*, http://arcc-catholic-rights.org/ (last updated May 8, 2005); Call to Action, *Call to Action USA*, http://www.cta-usa.org/ (Sept. 2005); Future Church, *Welcome to Future Church*, http://www.futurechurch.org/ (2005); Voice of the Faithful (VOTF), *Voice of the Faithful*, http://www.votf.org/ (2005). All of these reform groups maintain web sites with links to other allied groups.

85. Consistent Life, *About Us*, Life, at Consistent Life, *Consistent Life – About Us*, http://www.consistent-life.org/about.html (last accessed Sept. 20, 2005).

groups and prominent individuals who subscribe to their vision statement, which reads:

> We are committed to the protection of life, which is threatened in today's world by war, abortion, poverty, racism, the arms race, the death penalty and euthanasia. We believe that these issues are linked under a consistent ethic of life. We challenge those working on all or some of these issues to maintain a cooperative spirit of peace, reconciliation, and respect in protecting the unprotected.[86]

This network of small groups pursuing this vision is a direct descendant of Cardinal Bernardin's original effort to unify the pro-life struggle. They are also the children of earlier American Catholic prophets such as Dorothy Day and Thomas Merton. So many pro-life workers have been inspired by Dorothy Day and The Catholic Worker's heroic witness and seventy-year work for peace and justice for the poor. When the history of the American Church is written, the great witness and influence of Dorothy Day will be seen as crucial for moving the Catholic community toward the consistent ethic of life.[87] Dorothy's prophetic convictions on the power of nonviolent love were in accord with Gandhi's teachings on nonviolence and the power of soul force; these teachings also influenced Martin Luther King and the civil rights movement.

Many other movements around the globe have adopted peaceful means of change. In the U.S., ecumenical groups such as Sojourners and those in the newly articulated progressive pro-life movement, described by Rev. Jim Wallis in *God's Politics*, also build on these earlier prophets working for peace and justice through nonviolent alternatives.[88] Catholics, along with others, have also drawn inspiration from the witness and teachings of Pope John Paul II as he embodied the spirit of Vatican II's call for peace and justice.

All of the above developments and groups, along with others I have surely overlooked, can be read as positive signs of the influence of the consistent ethic of life within the Church. The question of its influence outside of the Church in the secular world is another question.

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86. Consistent Life, *Mission Statement of Consistent Life*, http://www.consistent-life.org/index.html (last accessed Sept. 20, 2005).

87. *See generally American Catholic Pacifism: The Influence of Dorothy Day and the Catholic Worker Movement* (Anne Klejment & Nancy L. Roberts eds., Praeger 1996); Dorothy Day, *By Little and By Little: The Selected Writings of Dorothy Day* (Robert Ellsberg ed., Alfred A. Knopf 1983).

88. *See* Jim Wallis, *God's Politics: Why the Right Gets It Wrong and the Left Doesn't Get It* (HarperSanFrancisco 2005); *see also* Call to Renewal: A Faith-Based Movement to Overcome Poverty, *Mission*, http://www.calltorenewal.org/ (last accessed Sept. 20, 2005); Sojourners: Faith, Politics, Culture, *Mission Statement*, http://www.sojo.net/ (last accessed Sept. 20, 2005).

III. WILL THE CONSISTENT ETHIC OF LIFE INFLUENCE AMERICAN CULTURE?

Can the seamless garment be sewn? Pointing to positive signs within the Church of a growing commitment to a consistent ethic of life does not answer the question of whether the general American culture is now, or will in the future, be responsive. A huge sociopolitical analysis of policies, parties, programs, popular culture, and political leaders would be needed to answer these questions. A pessimist might descend into cultural predictions to the effect that everything in America is getting worse and more so every day. Admittedly, we now live in the midst of regressive trends that bring Americans the horrors of pre-emptive war, moral justifications of imperial power and torture, unchanging abortion rights, increases in poverty, lack of health care, and pervasive defenses of selfishness and detached apathy.

On the global scene we see unchecked genocides, ongoing civil wars, ethnic cleansings, terrorism, famines, plagues, and impending environmental crises. Many among the current crop of U.S. public intellectuals explicitly argue for doing evil, or the lesser evil, in order to achieve desired ends.[89] Violence may be deplored, but is accepted as necessary to counter enemies and terrorists. Many such justifications are described as tragic choices or the inevitable "realism" necessary in the face of dangers. Tragic choice rhetoric, which is also used in abortion debates, often cuts off creative thinking about nonviolent alternatives. Great evils have been done while accompanied by expressions of reluctance. But some hope can be found in other events and developments that mark our current era. It appears to be a time when, as in the biblical phrase, the wheat and the tares are increasing together.

In the build-up to the Iraq war the world saw mass demonstrations for peace around the world. Widespread debate and discussion over the conditions for a just war grew ever more prevalent in American secular debates. The Catholic moral tradition on war entered into the discussion and engaged a government poised for attack. The U.S. declared war anyway, but efforts against the war and criticisms of its moral status have continued. Conscientious objection by members of the military is increasing and drawing more debate.[90] Damage to the troops in wounds and mutilation are noted, along with a running count of deaths among the U.S. military and Iraqi civilians. The scandal of torture of prisoners by American forces has drawn horrified condemnation.[91]

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89. Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* ch. 1 (Princeton U. Press 2004).

90. Joseph Wakelee-Lynch, *Conscientious Objection and the War in Iraq*, http://thewitness.org/agw/wakeleelynch122204.html (Dec. 22, 2004).

91. *See generally The Torture Papers: The Road to Abu Ghraib* (Karen J. Greenberg & Joshua L. Dratel eds., Cambridge U. Press 2005).

Worry is expressed over the harmful effects of the war upon those fighting it. The physical and psychic suffering of those who kill and torture is being newly assessed.[92] Even legal, socially approved killing by combat troops, death penalty executioners, and abortion providers can result in posttraumatic stress.[93] Post-abortion stress among women is also coming to be accepted as a reality.[94] The physical, psychic, and social cost of permissive abortion to women is being discussed.[95]

The uncovering and distribution of information on the Internet has played a significant role in debates and resistance movements.[96] The use of the Internet for communication and peacemaking points to a paradox of our time: while certain technologies present challenges to the consistent ethic of life (particularly in warfare and reproduction research), other technological inventions help pro-life causes. The spread of sonograms that show the fetus *in utero* have had an effect on women's decisions to abort and on public opinion.[97] Publicizing depictions of what is involved in late abortions and partial-birth abortions fuels opposition to them.[98] Internet pictures of torture by U.S. troops raised an outcry of moral indignation.[99]

One can sense a change in the United States pro-life debates. On the abortion question, for the first time since *Roe v. Wade*,[100] serious opposition to liberal abortion laws and practices has gained ground. Elite academics no longer so readily disdain and dismiss pro-life arguments—always a good sign.[101] At the same time, consciousness of the issues of euthanasia and mercy killing at the end of life have not receded. The recent media attention to the Terri Schiavo case signals that debate over end-of-life issues of morality is vigorously pursued.[102]

Television and Internet reports of violence, famines, and repressive actions by the U.S. government and others provide motivation for protests.

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92. *See* Rachel M. MacNair, *Perpetration-Induced Traumatic Stress: The Psychological Consequences of Killing* (Praeger 2002).

93. *Id.*

94. *Id.*

95. *See* Elizabeth M. Shadigian, *Reviewing the Evidence, Breaking the Silence: Long-Term Physical and Psychological Health Consequences of Induced Abortion*, in *The Cost of Choice: Women Evaluate the Impact of Abortion* 63 (Erika Bachiochi ed., Encounter Books 2004) [hereinafter *The Cost of Choice*].

96. *E.g.* MoveOn.org, *MoveOn.org: Democracy in Action*, http://www.moveon.org/ (last accessed Sept. 20, 2005); Truthout, *Truthout*, http://www.truthout.org/ (last accessed Sept. 20, 2005).

97. Tony Perkins, *NARAL Calls Use of Ultrasound Machines a "Weapon"*, http://www.lifenews.com/oped17.html (last accessed Sept. 20, 2005).

98. Douglas Johnson, *The Partial-Birth Abortion Ban Act—Misconceptions and Realities*, http://www.nrlc.org/abortion/pba/PBAall110403.html (Nov. 5, 2003).

99. Mark Danner, *Abu Ghraib: The Hidden Story*, 51 N.Y. Rev. Books (Oct. 7, 2004).

100. 410 U.S. 113 (1973).

101. David Brooks, *Roe's Birth and Death*, N.Y. Times (Apr. 21, 2005); U. Faculty for Life, *UFL Mission*, http://www.uffl.org/ (last accessed Sept. 20, 2005).

102. Lisa Sowle Cahill, *Catholicism, Death and Modern Medicine*, 292 America 14-17 (Apr. 25, 2005).

Communication and television pictures of mass demonstrations for political changes encourage other peaceful movements for change around the world. Impressive nonviolent movements have more than once brought down governments—from the 1989 fall of the wall to the present situation in the Ukraine and Lebanon.

An increase in research on the effectiveness of nonviolent strategies has provided guidance for many of these different movements.[103] The operation of power of different kinds has been analyzed. The power that characterizes the logic of domination, which violates the defense of the person, has inherent weaknesses. Repression depends upon the subjection and continuing suppression of people affected by the cooperation of those who carry out the coercive violence. Persuasion and the enabling power of nurturance do not require external employment of force. The lessons of many past struggles for justice, such as that of Gandhi and the American civil rights movement, have provided models and knowledge that aid struggles for peace and justice.[104] The historical focus upon war and violence and its glorification has blinded people to alternatives.

The consistent ethic of life maintains with Gandhi that "means are after all everything. As the means, so the end."[105] Evidence builds in support of this claim. Observers and thinkers who once accepted "realistic" reliance upon American military violence to bring freedom and liberation through pre-emptive war are changing their minds. Faith in technological weaponry and violent coercion to win ideological victories is questioned.[106] Peacemaking groups can take heart that nonviolent solutions arising from mutually agreed-upon solutions seem to be more successful in a world that exists as a global village.[107] Optimists will say that if the consistent ethic of life reflects moral reality, it will be proved to be true by human experience. Abortion will be seen as harmful to women, men, children, marriage, and families as well as destroying fetal life.[108] Interdependence of life cannot be avoided, as new visions of the universe point to dynamically entangled matter or string theories. Already, evolutionary psychology asserts the psychic unity of humankind and the innate existence of trust, altruism, attachment, and a drive for consistency.[109]

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103. *See* Gene Sharp, *The Politics of Nonviolent Action* (Porter Sargent Publishers 1973).

104. James W. Douglass, *The Nonviolent Coming of God* xi (Orbis Books 1991).

105. Mahatma Gandhi, *The Essential Gandhi: His Life, Work, and Ideas: An Anthology* 199 (Louis Fischer ed., Random House 1962).

106. *E.g.* David Rieff, *At the Point of a Gun: Democratic Dreams and Armed Intervention* (Simon & Schuster 2005).

107. Jonathan Schell, *The Unconquerable World: Power, Nonviolence, and the Will of the People* 8-9 (Henry Holt and Co. 2003).

108. *See The Cost of Choice*, *supra* n. 95.

109. *Research on Altruism & Love: An Annotated Bibliography of Major Studies in Psychology, Sociology, Evolutionary Biology, and Theology* (Stephen G. Post, Byron Johnson, Michael E. McCullough & Jeffrey P. Schloss eds., Templeton Found. Press 2003).

Those who study the way social change comes about also have much to teach those who work for peace and justice in pro-life causes. How do ideas become accepted in a society? There exist different models of how changes proceed. One analysis of social change points to the way that systems and structures containing internal contradictions and inconsistencies break open.[110] The strain of inconsistency produces pressure and stress that can cause breakdown and collapse, and a new system emerges. This is a discontinuous process exhibited in many revolutions that have included violence. Some apocalyptic images from scripture seem to describe a sudden cataclysmic event that initiates the coming of the kingdom.

A more pacific biological model of change takes as an example the way a new species evolves.[111] Mutations and small populations may appear and, if not attacked and destroyed, may spread. Small groups living in innovative ways can reproduce, increase, and become dominant in an environment. A better adapted and more successful way of living triumphs over the previous stasis. In the evolution of humans, the increase in brain size and the positive advantages of cooperation of bonded social groups may have furthered the spread of homo sapiens. Altruistic attachments and social bonding, ways of living that protected the vulnerable, outperformed and outlasted older ways of violent domination. Perhaps the amazing spread of small Christian communities over the ancient urban world illustrates such growth.

Teilhard de Chardin could serve as the godfather of the Christian thinkers who see evolutionary processes as an example of the progress of ever-converging and ascending Christian love.[112] In scripture, similar natural images of nonviolent change can be found, as in the likening of Christian influence in the world to that of the small measure of yeast which makes the bread rise. Or there is reference to the way that faith the size of a mustard seed can grow into a huge tree that shelters other living things.

An up-to-the-minute secular description of social change is provided by popular science writer Malcolm Gladwell in his best-selling book *The Tipping Point.*[113] He employs the model of the spread of an epidemic and moves from epidemiology to other research investigating change. The tipping point refers to the point in a process when an idea, a disease, a technology, a book, or some other entity takes off and becomes a mass phenomenon within a population. A favorable context, environment, enthusiastic salespersons, and emotional factors play a part in the diffusion of the product (i.e., the idea, virus, or new technology). Certain conditions favor

110. Rom Harre, *Social Being: A Theory for Social Psychology* ch. 15 (Rowman & Littlefield 1980).

111. *Id.*

112. *E.g.* Teilhard de Chardin, *The Divine Milieu* (Harper & Bros. 1960).

113. Malcolm Gladwell, *The Tipping Point: How Little Things Can Make a Big Difference* (Little, Brown & Co. 2000).

the spread to the tipping point. Unfortunately for those wishing to start an epidemic of moral reform, it is, as of now, impossible to either certainly predict or create the process that results in a tipping point.

In applying this model to the influence of the consistent ethic of life, the ethic would be the product, and it would have to be admitted that it has in no way spread to reach a tipping point. Maybe the select few have taken it up, or caught the virus, but, so far, not enough charismatic salesmen have been able to interact in a context that would facilitate its spread to the culture at large. But present failure to effect massive and widespread influence should not lead to discouragement.

For those who believe that God is our future, hope exists. The future is open to the new. Positive moral progress does take place, as in the fairly recent case of the emancipation of slaves and women. All the different models of social change may take place at once from the top, from below, from the margins, and from the center of a culture as individuals change. Many different capacities of human beings can operate, such as reason, experience, the growth of empathy, and evangelism. The witness of the few and the practice of group life in the churches can make a difference.

One irony pointed out by the astute sociologist Albert O. Hirschman is that often those who study social systems are the least open to the possibility of rapid and deep social changes.[114] They focus their attention upon all the ways that an operating system functions and reinforces the status quo and, in doing so, become blinded by a "gloomy vision."[115] Yet there are periods when "history 'suddenly accelerates'" and social worlds are transformed.[116] Those persons who have a "passion for what is possible" do not wait or "rely on what has been certified as probable by factor analysis."[117] They go out and change the world.

At this point we cannot say whether or when the consistent ethic of life will win the world, but we can hope and pray and work.

114. Albert O. Hirschman, *The Search for Paradigms as a Hindrance to Understanding*, in *Interpretative Social Science: A Reader* ch. 4 (Paul Rabinow & William M. Sullivan eds., U. of Cal. Press 1979).

115. *Id.* at 172.

116. *Id.* at 177.

117. *Id.* at 179.

ARTICLE

UNRAVELING THE "SEAMLESS GARMENT":* LOOSE THREADS IN PRO-LIFE PROGRESSIVISM

SUSAN FRELICH APPLETON†

What specific political goals and priorities characterize the "pro-life progressive" position on the subject of abortion? In particular, do principal objectives include overturning *Roe v. Wade*[1] and enacting abortion restrictions? What do these goals and priorities reveal about respect for women as full, responsible, and equal decision-makers in our society?

For me, the sole unapologetically pro-choice participant in this symposium, the central question concerns whether the pro-life progressive position on abortion freedom dooms the entire project as an oxymoron. I consider women's reproductive self-determination an indispensable element of gender equality and gender equality an indispensable element of a progressive agenda. If the "pro-life" part of the project's name signals a commitment to overturn *Roe* and impose restrictions on abortion, then I would conclude that the "progressive" part of the name is contradictory and disingenuous.

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* The title of my essay responds to the title of the conference at which I presented the ideas in this paper, *Can the Seamless Garment Be Sewn? The Future of Pro-Life Progressivism*, at the University of St. Thomas School of Law, on March 11, 2005. For more information about the "seamless garment," also known as "a consistent ethic of life," *see e.g.* Fr. James Scullion, *The Seamless Garment: The Call to a Consistent Ethic of Life*, http://www.wau.org/about/authors/scullion1.html (2002). My essay's title also came to mind, however, because of Frances Olsen's excellent 1989 essay on *Webster v. Reprod. Health Services*, 492 U.S. 490 (1989), which in turn invoked attorney Frank Susman's comment during the oral arguments of that case. Frances Olsen, *Comment: Unraveling Compromise*, 103 Harv. L. Rev. 105, 105-07 (1989) (noting how Susman responded to the Solicitor General's stated effort just "to pull one thread" from the Court's abortion precedents: "It has always been my personal experience that when I pull a thread, my sleeve falls off.").

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1. 410 U.S. 113 (1973).

I. "PRO-LIFE" OR "PRO-CHOICE"[2]

Not all proponents of a "pro-life" stance explicitly advocate reversal of *Roe* or new restrictions on abortion. For example, Sally Winn, vice president of Feminists for Life, has been visiting college campuses to rally feminists to a pro-life position, but important aspects of the approach she articulates might well be described as "pro-choice." In part, she challenges the obstacles that tip the scales toward abortion for women who might otherwise choose to carry their pregnancies to term. In the speech that I heard, she pointed to the difficulties that pregnant college students face: no coverage of prenatal care in student health insurance (despite coverage of abortion procedures), no dorms for students with babies, and no on-campus childcare available to undergraduates.[3] Whether Winn would take additional steps, such as pressing for laws criminalizing or restricting abortion, was left unsaid.

Winn's words sounded pro-choice to me. I would enthusiastically join her in criticizing the policies and structures that impair a woman's freedom to decide to carry her pregnancy to term, just as I would criticize the policies and structures that impair a woman's freedom to decide to have an abortion. That is why, in past publications, I have challenged both public funding schemes that subsidize prenatal care and childbirth for indigent pregnant women while withholding such financial assistance for their abortions[4] and also welfare reforms, such as "family caps," that create financial pressures for poor women to terminate their pregnancies even when they would prefer to carry to term.[5] In fact, in my very first publication as a law professor, I emphasized the problem in withholding public funds for poor women's abortions by asking readers to imagine the mirror-image situation:

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2. Of course, the terminology itself carries substantial political baggage. *See e.g.* Frances Kissling, *Is There Life after* Roe*? How to Think about the Fetus*, http://www.catholicsforchoice.org/conscience/current/LifeAfterRoe.htm (Winter 2004-2005) (sidebar on terminology).

3. The flyer for her talk, which took place at Washington University School of Law on February 24, 2005, advertises a lecture, followed by Q & A, by Sally A. Winn, vice president, Feminists for Life of America, "Refuse to Choose: Reclaiming Feminism." For additional information about the "College Outreach Program," see Feminists for Life of America, *College Outreach Program*, http://www.feministsforlife.org/cop/lectandwork.htm (accessed June 12, 2005). Feminists for Life attracted attention after the President nominated John Roberts to the Supreme Court of the United States. Jane Sullivan Roberts, his wife, has performed pro bono work for the organization. *See e.g.* Lynette Clemetson & Robin Toner, *Anti-Abortion Advocacy of Wife of Court Nominee Draws Interest*, N.Y. Times A1 (July 23, 2005).

4. Susan Frelich Appleton, *Beyond the Limits of Reproductive Choice: The Contributions of the Abortion-Funding Cases to Fundamental-Rights Analysis and to the Welfare-Rights Thesis*, 81 Colum. L. Rev. 721 (1981).

5. Susan Frelich Appleton, *When Welfare Reforms Promote Abortion: "Personal Responsibility," "Family Values," and the Right to Choose*, 85 Geo. L.J. 155 (1996).

a legislative decision to subsidize abortions but to defund medical care for poor women who want to carry to term.[6]

II. Feminism, Choice, and Equal Respect for Women

A. *Why Women Must Choose*

For me, a core principle of feminism requires respect for women's *own choices*, especially in matters concerning their bodies and their reproductive destinies.[7] This principle requires freedom from not only explicit barriers (such as criminal abortion laws) but also other policies and structures that pressure women to follow one path or another.

Four primary reasons lead me to regard as nonnegotiable requirements of feminism a woman's freedom to make important decisions about her body, her health, and her reproduction.[8] First, I reject the paternalism inherent in laws that communicate distrust for women's decision-making.[9] Such laws signal the belief that women lack the capacity to make moral and ethical choices.

Second, I accept the reality that, even today, the male norm best establishes a baseline for the equal respect owed to women. That is, our laws and our society are structured to reflect men's experiences and to address

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6. Susan Frelich Appleton, *The Abortion-Funding Cases and Population Control: An Imaginary Lawsuit (and Some Reflections on the Uncertain Limits of Reproductive Privacy)*, 77 Mich. L. Rev. 1688 (1979).

7. I appreciate the limits of invoking "choice" as the rubric for reproductive rights. *See generally e.g.* Rickie Solinger, *Beggars and Choosers: How the Politics of Choice Shapes Adoption, Abortion, and Welfare in the United States* (Hill & Wang 2001). Solinger explains the thesis of her book, a critique of "the language of choice," as follows:

> This book is about the complexities of "choice" in the United States after *Roe v. Wade*. What happens when the special guarantee for all women—the promise that women can decide for themselves whether and when to be mothers—is expressed by the individualistic, marketplace term "choice"? How can users of such a term avoid distinguishing, in a consumer-culture fashion, between a woman who can and a woman who can't afford to make a choice? What aspects of "rights" were masked or lost when the language of choice replaced the language of rights at the heart of women's special guarantee?

Id. at 6.

8. Linking abortion rights with feminism has proven controversial over the years. *See e.g.* Carole Joffe, *Doctors of Conscience: The Struggle to Provide Abortion Before and After* Roe v. Wade 133-34 (Beacon Press 1995). Linda Gordon explains the rise of anti-abortion sentiment after *Roe v. Wade* this way: "What did happen [after *Roe*] was the spread of a feminist understanding of abortion as a right of self-determination to which all women were entitled, replacing the previously dominant view of abortion as, alternatively, a form of medical treatment or an unpleasant and risky but often necessary private solution to a personal problem." Linda Gordon, *The Moral Property of Women: A History of Birth Control Politics in America* 300 (U. Ill. Press 2002).

9. *Cf.* Kristin Luker, *Abortion and the Politics of Motherhood* 22 (U. Cal. Press 1984) (describing physicians' campaign to criminalize abortion in late 1800s, which portrayed women who terminated pregnancies as "*inadvertent* murderesses" who did not appreciate what they were doing). For a more contemporary critique of paternalistic policies, see e.g. *Turner v. Safley*, 482 U.S. 78, 99 (1987) (invalidating prison's restrictions on marriage for female inmates because of, *inter alia*, "excessive paternalism").

men's needs. So, if we cannot imagine legislatures substituting their opinions for doctors and patients when it comes to men's medical treatment, then we should not tolerate such legislative actions when it comes to women's medical treatment.[10] In one telling illustration of this male norm, note how we needed to await the "Viagra revolution" to win insurance coverage for women's contraceptives—pharmaceuticals that were once excluded from coverage as "lifestyle choices."[11]

Third, the pervasive male norm and women's reproductive capacities have combined to support the systematic subordination of women. Although neither inevitable nor unavoidable, such subordination has been real. We see it in the way that our legal tradition has treated the roles of men and women in marriage.[12] And, just in case there was room for doubt, consider how women's subordination was regarded as so obvious, so unquestionable, and so "natural" that it was invoked by analogy to justify the subordination of African Americans in slavery.[13] This subordination continues today, as we can see everywhere from women's second-class citizenship in some Middle Eastern countries to the depiction of women in American popular culture[14] and the musings of Harvard University President Lawrence Summers about women's unsuitability for careers in science and mathematics.[15]

Fourth, this subordination has a distinct sexual component, reflected in a persistent double standard and gendered concept of sexual pleasure—male. Return to the "Viagra revolution" mentioned before. The relentless advertisements for male sexual performance drugs assume that pleasure for men is so expected, so utterly ordinary, that all media consumers will understand the utility of these products. True, one might discern a connection between male performance and female pleasure, with some of the advertise-

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10. *Cf.* Olsen, *supra* n. *, at 129-30.

11. *See e.g. In re Union Pacific R.R. Empl. Practices Litig.*, 378 F. Supp. 2d 1139 (D. Neb. 2005); Lisa A. Hayden, *Gender Discrimination within the Reproductive Health Care System: Viagra v. Birth Control*, 13 J.L. & Health 171 (1999); Breena M. Roos, Student Author, *The Quest for Equality: Comprehensive Insurance Coverage of Prescription Contraceptives*, 82 B.U. L. Rev. 1289 (2002).

12. *See e.g. Planned Parenthood of S.E. Pa. v. Casey*, 505 U.S. 833, 896-97 (1992). In striking down a spousal-notification requirement for abortion, the majority recalled and explicitly rejected "the common-law understanding of a woman's role within the family," which precluded her "full and independent legal status under the Constitution." *Id.* at 897 (citation omitted). *See also* Catharine A. MacKinnon, *Women's Lives—Men's Laws* 127-46 (Belknap Press 2005) (disentangling women's social inequality from women's and men's different biological roles in reproduction).

13. Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* 61 (Harv. U. Press 2000).

14. *See e.g.* Maureen Dowd, *Taming of the Shrews*, N.Y. Times 4.13 (Mar. 6, 2005) (op-ed column). Even apart from the depiction of women, consider the insult popularized by Governor Arnold Schwarzenegger and used throughout the election season of 2004: "girlie man." *See e.g.* Frank Rich, *How Kerry Became a Girlie-Man*, N.Y. Times 2.1 (Sept. 5, 2004).

15. *See e.g.* Sara Rimer & Patrick D. Healy, *Furor Lingers as Harvard Chief Gives Details of Talk on Women*, N.Y. Times A1 (Feb. 18, 2005).

ments even suggesting this link;[16] nonetheless, methods of freeing women to enjoy sex without fear of procreative consequences are not regarded as a similar entitlement. The continuing battle over abortion and the new struggle over emergency contraception[17] demonstrate this point. To the extent, then, that a woman's confidence in controlling reproduction (despite the risk of contraceptive failure) unlocks for her the sexual enjoyment so prized among men, the mere availability of abortion becomes an important element of a full, free, and equal life.[18]

16. These commercials often present "teasers," that is, suggestions about the medication's use, in place of explicit descriptions. Stuart Elliott, *Pfizer Plans to Show Teaser Ads for Viagra*, N.Y. Times C3 (Aug. 11, 2004) (reporting campaign based on slogan "Get back to mischief."); *see also* Stuart Elliott, *Viagra, With a Wink and a Nudge, Joins Its Racier Rivals on Their Turf*, N.Y. Times C1 (Aug. 17, 2004). The manufacturer halted one such advertising campaign, depicting Viagra users as "devilish," after the F.D.A. disapproved the commercials' failure to state the drug's purposes and side effects. Stuart Elliott, *F.D.A. Criticizes Viagra Ads, Prompting Pfizer to Halt Them*, N.Y. Times C6 (Nov. 16, 2004). Some commercials for these products (which include not only Viagra, but also Levitra and Cialis), picture the male consumer's female partner and ask, "If the moment is right, will you be ready?" Michael Lollar, *Viagra, Its Cousins, Drawing Younger, Fitter Men Too—Drugs Getting Use for "Recreation" in Addition to Therapy*, Com. App. A1 (Memphis, TN) (Apr. 26, 2005). Legislative efforts to restrict such advertising on television have not yet succeeded. Representative Jim Moran, who has for the second time introduced a bill to limit the hours when such ads can air on television and radio, faults the excessive "sexual innuendo." Nonetheless, he concedes, "When it comes to family values versus corporate profits, corporate profit prevails. You don't accomplish much more than exposing the hypocrisy of some of those religious-right extremists." *Erectile Dysfunction: Bill Would Restrict Air Time for Rx Ads*, 10 Am. Health Line 9 (Mar. 21, 2005). More recently, pharmaceutical industry guidelines have limited such advertising. *See* Stephanie Saul, *Drug Makers to Police Consumer Campaigns*, N.Y. Times C7 (Aug. 3, 2005).

17. *See e.g.* Gardiner Harris, *Official Quits on Pill Delay at the F.D.A.*, N.Y. Times A12 (Sept. 1, 2005); Gretchen Ruethling, *Illinois Pharmacist Sues Over Contraceptive Rule*, N.Y. Times A1 (June 10, 2005); Monica Davey, *Pharmacies Balk on After-Sex Pill and Widen Fight*, N.Y. Times A1 (Apr. 19, 2005); *cf. Helping Rape Victims: New Bill Would Change Justice Department Decision to Exclude Morning After Pill from National Treatment Guidelines*, U.S. Fed. News (Mar. 10, 2005).

18. Sylvia A. Law, *Homosexuality and the Social Meaning of Gender*, 1988 Wis. L. Rev. 187, 225 ("People have a strong affirmative interest in sexual expression and relationships. Through sexual relationships, we experience deep connection with another, vulnerability, playfulness, surcease, connection with birth and with death, and transcendence."); *see also Casey*, 505 U.S. at 856 ("[F]or two decades of economic and social developments, people have organized intimate relationships and made choices that define their views of themselves and their places in society, in reliance on the availability of abortion in the event that contraception should fail."); *id.* at 860 ("An entire generation has come of age free to assume *Roe*'s concept of liberty in defining the capacity of women to act in society."); Laura Rosenbury, *Some Thoughts On Sex Negativity* (unpublished ms. Apr. 4, 2005) (copy on file with author); Alec Walen, *Consensual Sex Without Assuming the Risk of Carrying an Unwanted Fetus: Another Foundation for the Right to an Abortion*, 63 Brook. L. Rev. 1051 (1997); *cf.* Katherine M. Franke, *Theorizing Yes: An Essay on Feminism, Law, and Desire*, 101 Colum. L. Rev. 181, 199-200 (2001) ("The failure of legal feminists to articulate and press a viable positive domain of non-reproductive sexuality has left such a domain overdetermined as either lesbian territory or the site of surplus male sexuality that is in need of taming, if not excising altogether, through juridical means."). One might well ask whether the Supreme Court's opinion in *Lawrence v. Texas*, 539 U.S. 558 (2003), protecting gay intimacy from criminal punishment, inaugurates a general sex-positive jurisprudence. For a critique along these lines, *see* Nelson Lund & John O. McGinnis, Lawrence v. Texas *and Judicial Hubris*, 102 Mich. L. Rev. 1555, 1582 (2004).

Given my reading of *Roe v. Wade* as a decision about decision-making[19] and my understanding of respect for women's own decisions as essential for their full equality,[20] it follows that efforts to overturn *Roe* or to enact restrictions on women's reproductive decisions necessarily reveal a preference for gender inequality. Although I did not hear Ms. Winn explicitly advocate such measures, I take issue with the message communicated by the title of her recent campus campaign, "Refuse to Choose." The full flourishing and equal respect contemplated by feminism and other progressive initiatives *require* women to choose how they want to lead their lives. Making ethical decisions and taking responsibility for them are essential to citizenship. Whether women choose to abstain from sexual intimacy with men, to engage in sexual acts just for fun, to use birth control, to terminate a pregnancy, to try to conceive, or to carry a pregnancy to term, it is critical that they make choices and that they take responsibility for these choices.[21]

No doubt, some readers will contend that my analysis, emphasizing why women must choose, conveniently omits any reference to the embryo or fetus. In reply, I would invoke the *Roe* Court's reasoning that, given the burdens imposed on women by the denial of choice and the genuine disagreement about the moral status of the fetus, a pregnant woman must resolve this issue according to *her own* conscience and ethical standards.[22] Further, I follow those scholars who have shown that anti-abortion laws single out pregnant women for physically demanding Samaritan duties, an argument that succeeds even if one concedes the legal personhood of the fetus.[23] I would add the observation that the law never asks the parent of a child to provide, say for example, a kidney or bone marrow for transplantation even if the child would die without the donation, because even recognized duties to rescue steer clear of such physical invasions and risks.[24]

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19. 410 U.S. 113; *see generally e.g.* Laurence H. Tribe, *Foreword: Toward a Model of Roles In the Due Process of Life and Law*, 87 Harv. L. Rev. 1 (1973). *See also* Kissling, *supra* n. 2, at 11 ("The most powerful of pro-choice messages has been the multi-faceted 'Who Decides?' which highlights both women's rights and keeping government out of the bedroom without ever mentioning either.").

20. *See generally e.g.* Sylvia A. Law, *Rethinking Sex and the Constitution*, 132 U. Pa. L. Rev. 955 (1984).

21. *See Casey*, 505 U.S. at 851 ("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. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State."); *see also Speak Out: I Had an Abortion* (Gillian Aldrich & Jennifer Baumgartner 2005) (documentary). For more information about the film, see SpeakOut Films, *Speak Out: I Had an Abortion*, http://www.speakoutfilms.com/ (accessed Aug. 7, 2005).

22. *Roe*, 410 U.S. at 153-62.

23. *See e.g.* Donald H. Regan, *Rewriting* Roe v. Wade, 77 Mich. L. Rev. 1569 (1979); Judith Jarvis Thomson, *A Defence of Abortion*, 1 Phil. & Pub. Aff. 47 (1971); *see also* Suzanna Sherry, *Women's Virtue*, 63 Tul. L. Rev. 1591, 1593 (1989) (describing the Samaritan argument as the "best argument" for abortion freedom because it gets to the "real question," which is "not the importance of the dependent life involved" but rather whether the pregnant woman "may be compelled to provide the aid" without which the fetus will die).

24. *See e.g. In re A.C.*, 573 A.2d 1235, 1243-44 (D.C. Cir. 1990) (en banc).

Finally, I note that restrictions designed to protect potential life inevitably reflect value judgments, as Frances Olsen has persuasively shown,[25] and our society, which systematically devalues women, remains most comfortable with judgments that underrate burdens imposed exclusively on the female half of the population.[26]

B. Choices in Context

Of course, I recognize the difficulty—perhaps the impossibility—of knowing with confidence whether we can identify a particular woman's *true choice*, apart from the context in which it is embedded, a context that includes her family life, her financial situation, the cultural setting, the societal norms, and the subordination I mentioned before.[27] How can we disentangle what a woman might *really* want to do from all the social forces and value judgments that shape her way of looking at the possibilities? Although Winn focused on all the contextual pressures tilting women toward abortion, one must recognize as well all the forces of "repronormativity"[28]—that is, the messages that make pregnancy and motherhood icons in our understanding of what it means to be female.

1. The Case of In Vitro Fertilization

To see repronormativity at work, as well as some of the biases and blind spots in the contemporary pro-life position, consider the booming and almost completely unregulated business of assisted reproductive technology. Clinics treating infertility recruit egg and sperm donors, lobby for laws mandating insurance coverage,[29] market their services, and perform in vitro fertilization (IVF)[30]—a process which, as practiced today, routinely entails creating outside the body far more embryos than the number that will actually be transferred to a woman's uterus to help her become pregnant.[31] Although the unused embryos might be donated to others, by far the majority of them are destroyed outright or destroyed after use for research,

25. Olsen, *supra* n. *, at 126-33.

26. *Id.*

27. *E.g.* Catharine A. MacKinnon, *Feminism Unmodified* 93-97 (Harv. U. Press 1987).

28. *See* Franke, *supra* n. 18, at 183-84.

29. *See e.g.* Solinger, *supra* n. 7, at 206.

30. *See generally* Susan Frelich Appleton, *Adoption in the Age of Reproductive Technology*, 2004 U. Chi. Leg. Forum 393.

31. *See* The President's Council on Bioethics, *Reproduction and Responsibility: The Regulation of New Biotechnologies* 46 (2004) (available at http://www.bioethics.gov/reports/reproductionandresponsibility/) (noting that "large numbers of embryos die at all stages of assisted reproduction," that "[a]n unknown number of additional embryos are discarded when it is determined that they are no longer needed or desired," and that "[t]housands of embryos are cryopreserved for indefinite periods of time"); Carl H. Coleman, *Procreative Liberty and Contemporaneous Choice: An Inalienable Rights Approach to Frozen Embryo Disputes*, 84 Minn. L. Rev. 55, 56 (1999) ("[F]rozen embryos are now being accumulated at the rate of tens of thousands per year in the United States alone.").

at the request of those who "own" them—the progenitors or those who commissioned their creation.

Given the stated pro-life agenda, I have often wondered about the exclusive focus on anti-abortion efforts. Why are those who profess the goal of protecting embryonic and fetal human life not also taking aim at the fertility industry and the practice of IVF in particular, including its purposeful creation and destruction of excess embryos? Consider a telling illustration from my own state, Missouri. When outspoken abortion-rights foe Catherine Hanaway became Speaker of the Missouri House of Representatives in 2002, she promised during the opening of the legislative session to work "to protect those children who would be killed even before they are born."[32] Yet, a contemporaneous biographical story in the local newspaper detailed her efforts to fight infertility, including IVF attempts using her own eggs and additional efforts using her sister's eggs.[33]

With all the time, attention, and resources devoted to halting or impeding abortions, how can we explain the silence of pro-life activists about the fertility industry?[34] Why do anti-choice legislators come up with phony safety requirements for abortion providers but never suggest even the most minimal regulation of the practice of IVF?[35] Why do protestors picket and harass patients at Planned Parenthood but not at IVF clinics?[36] Even in the

32. Bill Bell, Jr., *GOP Control of Missouri House Gives Optimism to Abortion Foes*, St. Louis Post-Dispatch B2 (Jan. 10, 2003).

33. Virginia Young, *Passion, Pragmatism Drive New Speaker; In '98, Hanaway Homed in on Retaking Missouri House*, St. Louis Post-Dispatch A1 (Nov. 10, 2002).

34. For a rare exception to the silence, see Helen M. Alvaré, *The Turn toward the Self in the Law of Marriage & Family: Same-Sex Marriage & Its Predecessors*, 16 Stan. L. & Policy Rev. 135, 155-63 (2005).

35. *See e.g.* Matt Franck, *Federal Judge Blocks New Abortion Law*, St. Louis Post-Dispatch 13 (Sept. 17, 2005) (reporting temporary injunction against regulations singling out abortion clinics).

36. *See e.g.* Kim Bell, *Burke Leads Anti-Abortion Protest*, St. Louis Post-Dispatch C7 (Jan. 16, 2005). For example, at Planned Parenthood of the St. Louis Region (PPSLR), located at 4521 Forest Park Avenue in St. Louis, Missouri, protestors typically show up every Tuesday, every Wednesday, and some Fridays, with a particularly large crowd every Saturday. Further, on one Saturday each month, the Cathedral of St. Louis (seat of the Catholic Archdiocese of St. Louis) sends worshippers to PPSLR to protest immediately after a pro-life mass. "[T]he picketers always show up on days when [PPSLR] provide[s] procedures." E-mail from Paula M. Gianino, President & CEO, PPSLR, to Professor Susan Frelich Appleton (June 20, 2005, 08:41 a.m. CDT) (copy on file with author). By contrast, no such protests occur at the Infertility and Reproductive Medicine Center, the site of IVF procedures, located just a few blocks away from PPSLR at 4444 Forest Park Avenue. According to one of the physicians: "To my knowledge, we have never had a pro-life demonstration. I have not heard of this type of protesting from any of the other centers either." E-mail from Randall R. Odem, M.D., Professor of Obstetrics and Gynecology, Chief, Division of Reproductive Endocrinology and Infertility, Washington University School of Medicine, The Infertility and Reproductive Medicine Center, to Professor Susan Frelich Appleton (June 20, 2005, 04:30 p.m. CDT) (copy on file with author).

current debate about stem-cell research,[37] we hear much opposition to the use of excess embryos for research,[38] but we hear little concern about whether those embryos should have been created as an initial matter, given the knowledge that they would not all be used.[39] Certainly, one can easily imagine alternatives to the laissez-faire regime, with Italy's controversial restrictions on assisted reproduction providing one illustration.[40]

By contrast, supporters of the pro-choice position face no such inconsistency. The notion of reproductive self-determination comfortably embraces access to medical techniques that allow one either to achieve or to avoid procreation.[41] Moreover, those supporting reproductive rights do not see the embryo or fetus as a person, although many regard it as entitled to special respect[42] and they appreciate the intimate relationship between the pregnant woman and the developing life that she nurtures.[43] I save for another day several questions about the way infertility is treated and the relationship of this treatment to adoption.[44] For now, my central focus is the inconsistency in the agenda of many pro-life activists—a loose thread in the seamless garment, to borrow the metaphor.

I find resistance—even hostility—to feminism to be the most compelling explanation for this "disconnect" in the pro-life agenda. Destruction of embryonic life must be a price worth paying when it will make more wo-

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37. Of course, there are sound feminist reasons to oppose stem-cell research, given the burden on women to provide the eggs for the process. *See e.g.* Sheryl Gay Stolberg, *Some for Abortion Rights Lean Right in Cloning Fight*, N.Y. Times A25 (Jan. 24, 2002).

38. For example, in opposing federal funding of stem-cell research that uses excess embryos left after IVF, President Bush has touted the option of "embryo adoption" without acknowledging the difficulties of this rarely used opportunity. Pam Belluck, *It's Not So Easy to Adopt an Embryo*, N.Y. Times 4.5 (June 12, 2005) (citing couples' discomfort with this option); Melissa Moore Bodin, *The Eggs, Embryos and I*, Newsweek 14-15 (July 28, 1997) (comparing donating embryos to relinquishing children for adoption). Still, I have seen no reports of presidential criticism of the practice of IVF itself, despite his professed support for a "culture of life." *See* Sheryl Gay Stolberg, *House Approves a Stem Cell Bill Opposed by Bush*, N.Y. Times A1 (May 25, 2005).

39. *See e.g.* Gordon, *supra* n. 8, at 314.

40. Elisabeth Rosenthal & Elisabetta Povoledo, *Vote on Fertility Law Fires Passions in Italy*, N.Y. Times A7 (June 11, 2005) (noting restrictions, including prohibition on freezing and testing embryos, ban on use of donated eggs, and limit on harvested eggs to three). A referendum to repeal the law failed because the requisite 50 percent of eligible voters did not participate after the Vatican urged a boycott. Ian Fisher, *Italian Vote to Ease Fertility Law Fails for Want of Voters*, N.Y. Times A11 (June 14, 2005).

41. *But see* Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* 248 (Pantheon 1997):

> Radical feminists have powerfully demonstrated that the new reproduction enforces traditional patriarchal roles that privilege men's genetic desires and objectify women's procreative capacity. They make a convincing case that new reproductive technologies serve more to help married men produce genetic offspring than to give women greater reproductive freedom.

42. *See e.g.* Ethics Committee of the American Society for Reproductive Medicine, *Donating Spare Embryos for Embryonic Stem-Cell Research*, 78 Fertility & Sterility 957, 958 (2002).

43. *See e.g.* Robert D. Goldstein, *Mother-Love and Abortion: A Legal Interpretation* (U. Cal. Press 1988).

44. *See* Appleton, *supra* n. 30.

men into mothers, but it cannot be tolerated when undertaken to avoid motherhood.[45] From this vantage point, the inconsistency should come as no surprise. It reflects quite precisely the division that Kristin Luker found in her insightful book, *Abortion and the Politics of Motherhood*,[46] published in 1984, well before we were thinking carefully about the widespread practice of assisted reproduction.[47]

Luker's research reveals that the passionate split of opinion on abortion rights rests on sharply contrasting conceptions of what it means to be a woman. The abortion-rights debate generates so much controversy because "*it is a referendum on the place and the meaning of motherhood.*"[48] In the main, the pro-choice position embraces feminist and progressive objectives; translated and summarized, these objectives include equal opportunities for men and women in education and employment, freedom from gender-based assumptions and stereotypes, and the elimination of paternalism. Luker writes:

> It is in this context that we can understand what women activists meant when they claimed that they had a *right* to their own bodies. As they came to expect to work much or most of their adult lives, just as men did, an unplanned pregnancy came to be seen as a tragedy. And for men, or the state, or physicians to have control over whether pregnancy would take place—and for women to suffer alone the consequences that decision would have for their careers, or education, or social status—came to seem eminently wrong and cruelly oppressive.[49]

Those on the other side of the clash do not regard equality as a primary value because "[they] believe that men and women are intrinsically different . . . [with] different roles in life."[50] Luker found that "[p]ro-life activists believe that motherhood—the raising of children and families—is the most fulfilling role that women can have."[51]

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45. Of course, one can find exceptions to my generalizations. The Vatican has long opposed assisted reproduction as well as abortion and contraception. *See e.g.* Alvaré, *supra* n. 34, at 162-63; Fisher, *supra* n. 40; Rosenthal & Povoledo, *supra* n. 40. Further, the issue of stem-cell research has divided the anti-abortion community, perhaps because of the commercial interests implicated by restrictions on scientific research. *See e.g.* John C. Danforth, *In the Name of Politics*, N.Y. Times A17 (Mar. 30, 2005); *see also e.g.* Susan Frelich Appleton & Helen Kornblum, *Danforth's Right: Mingling Religion, Law is Dangerous*, St. Louis Post-Dispatch B4 (Apr. 10, 2005); Z. Dwight Billingsly, *Sore Winner: Former GOP Sen. John Danforth is Out of Line in Deriding the Republican Party for Standing on Principle*, St. Louis Post-Dispatch B7 (Apr. 28, 2005).

46. *See generally* Luker, *supra* n. 9.

47. Luker explains her methodology, including reviews of literature published by organizations taking positions in the abortion debate, interviews with 212 activists on both sides of this debate, and observations of meetings of pro-choice and pro-life groups. *Id.* at 247-56.

48. *Id.* at 193 (emphasis in original).

49. *Id.* at 118; *see also* Solinger, *supra* n. 7, at 3-4 (summarizing initial favorable reaction to decision in *Roe v. Wade*).

50. Luker, *supra* n. 9, at 159.

51. *Id.* at 160.

> When women accepted the definition that a woman's primary role was as wife and mother, control of one's own body meant little. When the biological workings of one's body and one's social status (or intended social status) are congruent, who needs control? In everyday terms, if one's role in life is to be a mother, it is not such a problem that one's biology often seems [single-mindedly] bent on producing children.[52]

This analysis takes us only so far. First, it ignores the frequency with which mothers choose abortion in trying to provide the best care for their existing children.[53] Second, as I read this analysis, it brings us to a laissez-faire (or what I would call pro-choice) conclusion that should allow room for both groups of women to live according to *either* of the two understandings of the place of motherhood. I am sure you have seen the bumper sticker that seems to reflect this laissez-faire approach: "Against abortion? Don't have one." Yet, Luker pushes the analysis one step further, with the following observations:

> Pro-choice and pro-life activists live in different worlds, and the scope of their lives, as both adults and children, fortifies them in their belief that their own views on abortion are the more correct, more moral, and more reasonable. When added to this is the fact that should "the other side" win, one group of women will see the *very real devaluation of their lives and life resources*, it is not surprising that the abortion debate has generated so much heat and so little light.[54]

Historian Linda Gordon offers similar conclusions:

> Only in seeing the Right to Life movement as saturated with antifeminism does its strength become understandable. Abortion came to represent a multidimensional attack on the "traditional" family and gender system [including sexuality, management of child-raising and employment, and loss of motherhood].[55]

Now we have a framework for understanding the inconsistency in the pro-life agenda that consideration of IVF helps to expose. In the "referendum on the place and the meaning of motherhood," the protection of embryonic and fetal life emerges merely as distracting rhetoric. One might well discern as the real goal of the pro-life agenda the creation of a legal regime that reinforces the primacy of women's role as mothers. From this

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52. *Id.* at 118.

53. Joan C. Williams & Shauna L. Shames, *Mothers' Dreams: Abortion & the High Price of Motherhood*, 6 U. Pa. J. Const. L. 818 (2004); Joan Williams, *Unbending Gender: Why Family and Work Conflict and What to Do about It* 202 (Oxford U. Press 2000) (defending abortion rights "in the name of responsible motherhood").

54. *Id.* at 215 (emphasis added).

55. Gordon, *supra* n. 8, at 304-05.

perspective, the pro-life activists' condemnation of abortion and condonation of the practice of IVF make enormous sense.[56]

At its extreme, this position on motherhood recalls the famously discriminatory words of Justice Bradley concurring in *Bradwell v. Illinois*, the 1873 case upholding a prohibition on women's practice of law:

> [T]he civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood. The harmony, not to say identity, of interests and views which belong, or should belong, to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband.[57]

Surely, a seamless, coherent commitment to progressive values would reject these assertions and the attitudes that they reveal.

2. *A Closer Look at Anti-Abortion Laws*

Criminal anti-abortion laws necessarily deny equal respect for women by demonstrating distrust for their decisions. The call for such laws stands out as a loose thread in any purportedly seamless progressive agenda. Further, the usual pattern—reflected even in recent enactments such as the ban against so-called "partial birth abortions,"[58] which punishes the doctor's conduct without implicating the patient in the crime—only makes the paternalism more obvious. After all, but for her request for the procedure and her consent, the physician would not have acted. Portraying the abortion patient as an innocent victim denies her responsibility for the choice and reaffirms women's subordination.[59]

Nor can we justify paternalist state-prescribed informed consent rituals and waiting periods[60] when we have no similar criminal provisions interfering in the doctor-patient relationship for men's health care. We trust male

56. I do not suggest that I have discovered the "motives" of pro-life activists who seek abortion bans but ignore the practice of IVF. Rather, I am proposing one explanation that fits my observations and coincides with empirical research performed in other contexts. *See also* Kissling, *supra* n. 2, at 13 ("One is led to believe that, for those opposed to abortion, it is not saving fetuses that matters but preserving a social construct in which women breed.").

57. 83 U.S. 130, 141 (1873) (Bradley, J., concurring).

58. 18 U.S.C.A. § 1531 (West Supp. 2004).

59. Leslie Reagan, *Victim or Accomplice?: Crime, Medical Malpractice, and the Construction of the Aborting Woman in American Case Law, 1860s-1970*, 10 Colum. J. Gender & L. 311 (2001) (historical analysis of this issue).

60. *See Casey*, 505 U.S at 881-87 (joint opinion).

patients to elicit the information they need from their doctors to make meaningful choices about medical care and to sue for malpractice when the information is not given.[61] We must recognize that female abortion patients are equally capable of having an informative dialogue with health care providers, outside the shadow of criminal laws applicable only to this particular type of treatment.

In addition, we must provide public funding for abortions for poor women if we provide such funds for their medical care incident to carrying to term. The stated purpose of such asymmetric subsidies is to "encourage" (coerce) poor women to carry to term[62]—yet another signal of a readiness to manipulate women in the service of some goal that apparently ranks ahead of respect for their own values and decisions.

III. Conclusion: A Pro-Choice Path for Pro-Life Progressives

Many pro-life activists seem obsessed with a single, anti-choice, women-demeaning objective: eliminating the possibility that a woman will be able to obtain the abortion that she has chosen to undergo. Nonetheless, for those who seek to prevent the seamless garment from unraveling, there are many pro-choice and women-respecting initiatives that progressives might pursue to reduce the number of abortions actually chosen. For example, effective sex-education programs[63] and access to contraceptives promise to reduce the number of unwanted pregnancies.[64]

Despite the problems I have noted in laws that criminalize an abortion provider's failure to comply with a state-mandated waiting period and information script,[65] room remains for more expansive efforts to promote thoughtful medical decision-making. To the extent that access to information—including the opportunity to talk with other patients facing similar choices (both those who have selected a given treatment path and those who have selected alternatives)—enhances sound medical decision-making, the state could facilitate access to such information. Of course, the information must be "neutral" and accurate, and measures designed to facilitate access

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61. Susan Frelich Appleton, *Doctors, Patients and the Constitution: A Theoretical Analysis of the Physician's Role in "Private" Reproductive Decisions*, 63 Wash. U. L.Q. 183, 233-34 (1985).

62. *See e.g. Harris v. McRae*, 448 U.S. 297, 325 (1980).

63. Critics have explained why "abstinence-only" programs fail. *E.g.* Nicholas Kristof, *Bush's Sex Scandal*, N.Y. Times A21 (Feb. 16, 2005) (op-ed column).

64. *See e.g.* Kathryn Kolbert, *Two Steps Forward and One Step Back*, 6 U. Pa. J. Const. L. 686, 690-91 (2004); Patrick D. Healy, *Clinton Seeking Shared Ground on Abortion*, N.Y. Times A1 (Jan. 25, 2005); *but see* Rob Stein, *Pharmacists' Rights at Front of New Debate; Because of Beliefs, Some Refuse to Fill Birth Control Prescriptions*, Washington Post A1 (Mar. 25, 2005) (noting difficulty of obtaining contraceptives in some locales because of pharmacists' refusals to fill prescriptions).

65. *See* Appleton, *supra* n. 61.

should not single out abortion patients, but should reach all those facing important health care decisions.[66]

Further, respect for women requires vigilance in removing obstacles to carrying a pregnancy to term. Paid family leave,[67] workplace flexibility (to respond to the dilemma that women professionals face because the best time to have children is often the best time to focus on career advancement),[68] increased social support for women who choose to have children whom they know will be born with disabilities,[69] and reconsideration of family caps and welfare work requirements as applied to single parents of young children stand out as just a few examples on my list.[70] Both pro-life and pro-choice constituencies should support such efforts.

The term "pro-choice" is not just a politically sanitized synonym for "pro-abortion." To the contrary, "pro-choice," as I have always understood it, really does mean, quite literally, "pro-choice."[71] "Anti-choice" initiatives remain, necessarily and unavoidably, incompatible with progressives' asserted commitment to gender equality.

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66. Ronald Dworkin would allow the state to see that its citizens take life and death decisions seriously. Ronald Dworkin, *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom* 151 (Alfred A. Knopf, Inc. 1993). He goes on to caution, however, that "courts must be careful not to allow a state to disguise what is actually a coercive rule as a rule merely encouraging responsibility." *Id.* at 153. This analysis leads him to conclude that the Court should not have upheld the mandatory waiting period in *Casey*. *Id.* at 173-74; *see Casey*, 505 U.S. at 885-87.

67. The Family and Medical Leave Act guarantees only unpaid leaves. 29 U.S.C. § 2612(c) (2000); Steven Greenhouse, *As Demands on Workers Grow, Groups Push for Paid Family and Sick Leave*, N.Y. Times 1.23 (Mar. 6, 2005); *see also* Mary Ann Glendon, *Abortion and Divorce in Western Law* 22-25 (Harv. U. Press 1987) (noting, in critique of American "right" to abortion, how other countries provide better support for pregnant women and social benefits for mothers).

68. *See* Barbara Katz Rothman, *Recreating Motherhood* 98 (Rutgers U. Press 2000) (explaining why blaming infertile women for having delayed childbearing ignores the systemic disincentives against earlier childbearing); Joan C. Williams, *Singing the Baby Blues: If Having Children on the Tenure Track Is a Career Killer, Is Having Them in Graduate School Any Better?*, 50 Chron. Higher Educ. C2 (Apr. 23, 2004); Robin Wilson, *How Babies Alter Careers for Academics: Having Children Often Bumps Women Off the Tenure Track, a New Study Shows*, 50 Chron. Higher Educ. A1 (Dec. 5, 2003); *see also* Elaine Tyler May, *Barren in the Promised Land: Childless Americans and the Pursuit of Happiness* 213 (Basic Books 1997) (describing the "new pronatalism").

69. *See e.g.* Barbara Katz Rothman, *The Tentative Pregnancy: How Amniocentesis Changes the Experience of Motherhood* 189 (2d ed., W.W. Norton & Co. 1993); Elizabeth R. Schiltz, *Living in the Shadow of Mönchberg: Prenatal Testing and Genetic Abortion*, in *The Cost of Choice: Women Evaluate the Impact of Abortion* 39 (Erika Bachiochi ed., Encounter Books 2004).

70. *See e.g.* May, *supra* n. 68, at 208 (quoting a "childfree" participant in author's survey, who finds it "difficult 'to listen to platitudes about "mothers" (in a society that does not pay mothers living wages or high salaries, does not offer much pre-natal care or parental leave, considers war to be "fun" and sex "dirty," and still considers the female responsible for any problems caused by a "child")' ").

71. Sydney Buchanan, *The Abortion Issue: An Agonizing Clash of Values*, 38 Hous. L. Rev. 1481, 1482-83 (2002).

ARTICLE

ANOTHER SOCIAL JUSTICE TRADITION: CATHOLIC CONSERVATIVES

KEVIN E. SCHMIESING*

The following two letters were exchanged between Catholic social thinkers during the early 1920s. The first is from Conde Pallen, a Catholic layman, to Monsignor John Ryan, of the Social Action Department of the National Catholic Welfare Conference (NCWC):

> Pardon me if I fail to see in you and Dr. [Father Raymond] McGowan in Washington the sole depositories of the wisdom of the Holy Ghost in matters economic. I am content to accept Leo XIII's principles and teachings on these matters as set forth in his Encyclical "Rerum Novarum." Indeed I am quite confident that Rome has a much stronger and juster claim to be the seat of infallibility than Washington. . . . You seem to think that the only economic orthodoxy is your 'doxy, and that anyone who presumes to criticize any phase of your 'doxy is a knave, a prevaricator and a conspirator against the peace of injured innocence.[1]

The second is from Father William Engelen to Frederick Kenkel of the Catholic Central Verein. Engelen had been invited to a meeting on Catholic social thought, which was to include Ryan and his colleagues from the NCWC: "I do not care to go. Is it any use? Can we agree at all? I suppose their liberal ideas will eventually sweep everything. Can we afford, even to appear in their following?"[2]

As these excerpts suggest, disagreement among Catholics concerning social and economic issues is neither an uncommon, nor a new, phenomenon. Historian David O'Brien describes the New Deal period as "characterized by unanimous and enthusiastic approval of official Church teachings

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1. Joseph M. McShane, *"Sufficiently Radical": Catholicism, Progressivism, and the Bishops' Program of 1919*, at 229-30 (Cath. U. Am. Press 1986) (quoting John A. Ryan & Conde Pallen, *Correspondence*, Winona Courier 26-28 (Aug. 1921)).

2. Ltr. from Rev. William Engelen to Fredrick Kenkel, Dir., Catholic Central Verein of America (Nov. 29, 1922) (microformed on U. Notre Dame Archives, Catholic C. Verein of Am. Records 4/18).

and wide, often bitter, disagreement over their meaning and application."[3] I have argued elsewhere that the same is true for the first half of the twentieth century as a whole.[4] Few would doubt that discord characterized American Catholic life in the second half of the century.[5]

Following the lead of the symposium's organizers, I will for the sake of this discussion split the Catholic approaches to political and economic policy into two groups: *progressives* and *anti-progressives* (or *conservatives*). Progressives will be those who more or less align with the political Left in the United States, from the progressive era through the present. Conservatives will be those who more or less align with the political Right. At the same time, the relationship between any individual thinker and the tradition into which this article lumps them is complex. In seeking to understand fully the important figures in this history, it is inadequate to divide them simply into one of two camps, and this inadequacy will be noted at appropriate points.[6]

This essay will outline the differences between progressive and conservative Catholic approaches and explain in more detail the stance of the conservatives. Because less attention has been paid to the historical development of the conservative approach, it will also sketch this development through treatments of several major figures. Finally, it will conclude that the conservative approach represents a tradition of thought that is not only consistent with authoritative Catholic social teaching, but is also an important corrective to deficiencies in the progressive approach. Conservatives' hesitance to invoke government, recognition of the potential of business and the market, and emphasis on personal responsibility and civil society are all valuable contributions to a public discussion about the most effective means of alleviating poverty, ensuring justice, and serving the common good.

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3. David J. O'Brien, *American Catholics and Social Reform: The New Deal Years* 212 (Oxford U. Press 1968). Lawrence DeSaulniers, who has documented the Catholic press's reaction to the New Deal, similarly notes the obverse: despite significant diversity on specific policy questions, most Catholics were united in their belief that the papal encyclicals held the key to the solution of economic problems. Lawrence B. DeSaulniers, *The Response in American Catholic Periodicals to the Crises of the Great Depression, 1930–1935*, at 117 (U. Press of Am. 1984).

4. *See* Kevin E. Schmiesing, *Within the Market Strife: American Catholic Economic Thought from* Rerum Novarum *to Vatican II* (Lexington Books 2004).

5. Msgr. George A. Kelly, a participant in the strife, uses the metaphor of warfare in a classic treatment of the immediate post-Vatican II era. *See* Msgr. George A. Kelly, *The Battle for the American Church* (Doubleday 1979).

6. I will normally use the term "conservative," since that is probably the term most commonly applied to the figures I will be highlighting. Two recent studies that treat the relationship between Catholics and American progressivism in the early twentieth century illustrate the distinctive character of Catholic reformers vis-à-vis non-Catholic progressives. *See* John T. McGreevy, *Catholicism and American Freedom: A History* ch. 5 (W.W. Norton & Co. 2003); Thomas E. Woods Jr., *The Church Confronts Modernity: Catholic Intellectuals and the Progressive Era* (Colum. U. Press 2003).

The Progressives

In the first half of the century, the major figure in the progressive Catholic pantheon was the aforementioned Monsignor John Ryan (1865–1945). Ryan grew up in Minnesota, studied at Catholic University of America, and wrote a dissertation on the concept of a living wage—the published version of which earned the praise of progressive luminary Richard Ely, who saw in it the "first attempt in the English language to elaborate what may be called a Roman Catholic system of political economy."[7]

When the newly formed national organization of Catholic bishops, the NCWC,[8] decided to issue a statement on the American economy, they called on Ryan to draft it.[9] The result was the bishops' Program of Social Reconstruction of 1919, which called for minimum wage laws, social insurance against unemployment, old age, and illness, and the abolition of child labor.[10]

This foray by the bishops into economic policy stirred up opposition among more conservative Catholics, including Conde Pallen, whose response was quoted above.[11] Some bishops even disagreed with parts of the statement, a telling indication of the discordant views among Catholics on public policy issues. Defying the hopes of the Social Action Department and many bishops, the program, instead of crystallizing Catholic opinion in favor of a set of reforms, highlighted the challenges any such effort would encounter.[12]

Lines of division between progressive and non-progressive Catholics were made clearer with the onset of the Great Depression and the enactment of the legislation intended to address it. John Ryan became the best-known Catholic defender of New Deal programs, earning him the epithet "Right Reverend New Dealer" from the radio priest Charles Coughlin.

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7. Richard T. Ely, *Introduction*, in John Ryan, *A Living Wage: Its Ethical and Economic Aspects* i, xii (Macmillan 1906). It is also important to note that Ryan himself amply demonstrates the limitations of labeling Catholics according to the conventional categories of American political history. Ryan was an early board member of the American Civil Liberties Union, but he eventually resigned from membership—despite the pleading of the ACLU's president—over what he viewed as the ACLU's extreme position on academic freedom as well as irreconcilable differences over the issue of birth control. *See* Francis L. Broderick, *Right Reverend New Dealer: John A. Ryan* 142-43 (Macmillan 1963).

8. On the formation of the NCWC, see Elizabeth McKeown, *War and Welfare: American Catholics and World War I* ch. 3 (Garland 1988).

9. McShane, *supra* n. 1, at ch. 4.

10. *Id.* For the story of the program's genesis, drafting, and reception, including Ryan's involvement, see *id.* at ch. 4-5. For the text of the bishops' program, see *Pastoral Letters of the United States Catholic Bishops* vol. 1 1792-1940, 255-71 (Hugh J. Nolan ed., U.S. Catholic Conf. 1984).

11. McShane, *supra* n. 1.

12. *Id.*, at 184, passim. For a history of bishops' statements on policy, see Michael Warner, *Changing Witness: Catholic Bishops and Public Policy, 1917–1994* (Ethics and Pub. Policy Ctr. & William B. Eerdmans Publg. 1995).

For Ryan and other progressive Catholics, the cause of the Depression lay in the greed of capitalists and in the excessive freedom that they enjoyed to exercise it. A return to prosperity—and a more equitable prosperity—lay within the power of government. Father William Kerby, one of Ryan's mentors at Catholic University and a colleague at the Social Action Department, summed up the judgment of the progressives: "[W]e have less occasion to fear codes, even planned production, State paternalism, and a diminishing return on capital than we have to fear economic slavery, broken health, constant worry, disrupted homes, massive poverty and insecurity . . . ."[13]

The Conservatives

As the quotations at the head of this article indicate, Ryan and his colleagues at the NCWC were not universally viewed as reliable spokesmen for "the Catholic" position on social questions. There were many Catholics who disagreed with Ryan's interpretation and application of the Church's social teaching. William Engelen and his correspondent, Frederick Kenkel (1863-1952), represented the conservative viewpoint.

Engelen and Kenkel belonged to the group of ethnic Germans whom historian Philip Gleason has called the "conservative reformers."[14] These socially concerned Catholics were associated with the Catholic Central Verein (CCV). Founded in 1855 and headquartered in St. Louis, the CCV was one of the oldest Catholic social institutions in the country and maintained a long tradition of charity and publication on social questions. In a series of controversies that rocked the Catholic Church in the United States in the closing decades of the nineteenth century, it took a stance opposite that of "Americanists" such as Ryan's superior, Archbishop John Ireland. The CCV retained its strong ethnic German character and favored European models of economic organization over what it perceived as the overly individualist model regnant in America. In its first statement on systematic social reform in 1905, the Central Verein boldly proposed a corporatist economic system for the United States. This plan "aroused little enthusiasm," however, and was "never again presented . . . in so extreme or rigid a formulation."[15]

In 1909, Kenkel assumed control of the Verein's Central Bureau and directed it for more than four decades until his death in 1952. Under Kenkel's leadership, the CCV remained devoted to the teachings of the Church as expressed in papal encyclicals and also continued to draw on the legacy of German social thought emanating from the noted advocate of so-

13. William Kerby, *The Old Deal and the New*, Cath. Mind 271, 276 (July 22, 1934).

14. Philip Gleason, *The Conservative Reformers: German-American Catholics and the Social Order* (U. Notre Dame Press 1968).

15. *Id.* at 68, 45, 87. On the Americanist debates, see Thomas T. McAvoy, *The Great Crisis in American Catholic History: 1895–1900* (Regnery Publg. 1957).

cial reform, Bishop Wilhelm von Ketteler of Mainz, and from corporatists of the early twentieth century, particularly Jesuit economist Heinrich Pesch. At the level of policy, in the 1910s, the CCV supported organized labor, state legislation concerning minimum wages and the labor of women and children, workmen's compensation laws, and government regulation of industrial safety.[16]

Although Kenkel never embraced capitalism and was generally critical of the American economic system, he also stressed the dangers of centralization of economic functions in government, especially at the national level. He read signs of danger in the proclivity of progressive-era reform to rely on government action. "I see the day coming," he predicted in 1916, "when we, who for 20 years have said *there is a social question*, who have been called socialists, may be forced to . . . protest against the radical tendencies of the day. I believe . . . I will see the day when I will . . . [be] forced to say: 'This is the hour of state-socialism.'"[17]

In 1930, he explained that the Central Bureau opposed a bill under consideration by Congress "primarily because it is unwilling the Federal government should engage in activities which, in their very nature, should be left to individuals, private organizations, municipalities, counties, and states."[18] With the advent of the New Deal, Kenkel's warnings against state centralization took on added urgency.

John Ryan and Kenkel cooperated in some instances and Ryan continued to view Kenkel as an ally in the field of social reform. As Ryan assumed the role of public defender of Roosevelt's policies, however, Kenkel distanced himself from Ryan's views. In 1935, Kenkel indicated privately that his discomfort with Ryan's views had been building for some time. "I have lost confidence in Msgr. Ryan," he wrote to Joseph Matt.[19] Kenkel criticized Ryan for being "strong for public works," in spite of "the great danger of corruption we invite when recommending and inaugurating a spending program."[20] "We have been very tolerant of him," he continued, "for the sake of the common cause, and because I did not think it wise to

16. Gleason, *supra* n. 14, at 128, passim. On Ketteler, see Paul Misner, *Social Catholicism in Europe: From the Onset of Industrialization to the First World War* 90, passim (Crossroad Publg. Co. 1991).

17. Gleason, *supra* n. 14, at 127.

18. Ltr. from Frederick Kenkel, Dir., Catholic Central Verein of America, to Members of the Major Executive Committee of the Catholic Central Verein of America (Apr. 28, 1930) (microformed on U. Notre Dame Archives, Catholic C. Verein of Am. Records 1/28: Central Bureau correspondence 1920-1941); *see also* DeSaulniers, *supra* n. 3, at 102-03, for evidence that the CCV's main publication, the *Central-Blatt and Social Justice*, evinced increasing concern with centralization of government power from 1930 on.

19. Ltr. from Frederick Kenkel, Dir., Catholic Central Verein of America, to Joseph Matt, passim (Aug. 12, 1935) (microformed on U. Notre Dame Archives, Catholic C. Verein of Am. Records 3/07: Matt, Joseph 1906-1950). Matt was the editor of *The Wanderer*, a Catholic newspaper based in St. Paul.

20. *Id.*

create further confusion in the mind of our people, for whom it is so difficult to understand what Christian Social Reform . . . really means and desires to accomplish."[21] But Ryan's position had always tended toward statism, Kenkel reflected, and for this reason, he had been "frequently, and in principle, not in agreement with him."[22]

In the context of the 1930s, Kenkel believed that government aggrandizement of economic power represented, on balance, a threat rather than a benefactor to the common weal. Ryan held that national government was the only institution capable of bringing about more favorable economic conditions for all and thus supported New Deal reform. Both were devoted to the teachings of their Church on social questions and both were committed to the common good; but differing approaches to political economy and differing views about the lessons of the past led to disparate positions on the critical political questions of the day.

Post-War Catholic Conservatism

Divergent judgments about the success of the New Deal and its consonance with Catholic social teaching divided progressives such as Ryan from conservatives such as Kenkel, but the debate between progressives and conservatives shifted as new factors played into political and ideological alliances. The rise of anticommunism after World War II added another dimension to the antistatism that was central to Catholic conservatism. Religion not only became a more popular and public subject in the 1940s and 1950s, it became increasingly perceived as aligned with a conservative political agenda. This was especially the case among Catholics, for whom anticommunism was a religious imperative.[23] "The American Roman Catholic [C]hurch," Richard Gid Powers claims, "would be the backbone of American anticommunism for most of the movement's history."[24]

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21. *Id.*

22. *Id.*

23. On Catholics specifically, see John Earl Haynes, *Red Scare or Red Menace?: American Communism and Anticommunism in the Cold War Era* 92-99 (Ivan R. Dee 1996). On the post-World War II religious boom, see Mark A. Noll, *A History of Christianity in the United States and Canada* 436-41 (William B. Eerdmans Publg. Co. 1992).

24. Richard Gid Powers, *Not Without Honor: The History of American Anticommunism* 51 (Free Press 1995). Catholics pervade Powers's treatment of the subject. *See also* Donald F. Crosby, *God, Church, and Flag: Senator Joseph R. McCarthy and the Catholic Church, 1950-1957* (U. N.C. Press 1978). Crosby points out that, though anticommunism was common to Catholic liberals and conservatives, differences between the two groups persisted, and were sometimes reflected in the character of their anticommunism (e.g., how best to fight communism).

For a good example of a cold war Catholic assessment of communism, see John F. Cronin, *Communism: Threat to Freedom* (Natl. Catholic Welfare Conf. 1962). Cronin, assistant director of the Department of Social Action of the NCWC, was not closely identified with either the progressive or the conservative side in policy debates and took care to distance his position from McCarthyism, yet his was a clear and full-throated denunciation of communism on economic, political, and religious grounds.

Not all Catholic anticommunists were conservatives, of course, but the increasing prominence of anticommunism in American domestic and foreign policy debates led many Americans (Catholics included) to perceive a connection between the American left and international communism. The inference gained plausibility because, in some quarters of the left, there *was* a connection, but it was also shrewdly and unfairly exploited by some on the right who painted all of the left with a broad, red brush.[25]

In this context, Catholics were prominently involved in laying the intellectual and institutional groundwork for what became known—depending on one's perspective—as "the conservative movement," or the "vast right-wing conspiracy." "One is even tempted to say," historian of conservatism George Nash writes, "that the new conservatism was, in part, an intellectual cutting edge of the postwar 'coming of age' of America's Catholic minority."[26] William Buckley, Whittaker Chambers, Brent Bozell, Russell Kirk, and Garry Wills were among those connected to fledgling conservative institutions and publications.

Not every Catholic conservative strove to show how his or her political positions were compatible with papal social teaching. Father Edward Keller, CSC (1903–1989), however, was concerned to demonstrate such consistency. Born in Cincinnati, Keller joined the Congregation of Holy Cross and studied economics at the University of Minnesota. Before he could complete his dissertation, he was called to teach at his congregation's premier academic institution, the University of Notre Dame, where he spent the rest of his career as a professor of economics.

Keller's interpretation of the lessons of the Great Depression differed dramatically from those gleaned by Catholics such as John Ryan. Keller had known personally ex-President Hoover during the 1930s and 1940s and he believed that the picture of Hoover drawn by Roosevelt and the mainstream press was a caricature. In Keller's view, Hoover had been deeply concerned about Americans suffering impoverishment and had, in fact, implemented measures to relieve the depression, such as the Reconstruction Finance Corporation and spending on public works.[27]

His sympathetic impression of Hoover made Keller less susceptible to a glowing admiration of Roosevelt, and his understanding of economics reinforced these personal inclinations. "It is my conviction," he reflected

25. *See* Crosby, *supra* n. 24. On the linking of communism and progressive economics, see Schmiesing, *supra* n. 4, at 148. Major conservative anticommunists themselves, such as William Buckley and Russell Kirk, disavowed the careless anticommunism of those who made no distinction between communism and American liberalism. *See generally* Lee Edwards, *The Conservative Revolution: The Movement That Remade America* 105-06 (Free Press 1999).

26. George H. Nash, *The Conservative Intellectual Movement in America since 1945*, at 71 (Intercollegiate Stud. Inst. 1996); *see also* Patrick Allitt, *Catholic Intellectuals and Conservative Politics in America, 1950-1985* (Cornell U. Press 1993).

27. Oral History Interview by Raymond Henle with Edward Keller 2-4, 17-19 (Nov. 4, 1969) (microformed on U. Notre Dame Archives, Edward A. Keller Papers 1/10).

late in life, "that Mr. Hoover's economic policies would have brought the country prosperity because the Depression 'bottomed out' in 1932 and the economy was on the upswing in 1933, and prosperity would have been attained by 1934 if the economy had not be[en] structured into depression by the Roosevelt New Deal."[28]

What Keller meant by his claim that Roosevelt's policies worsened the Depression was made clear in Keller's published books. His economic research focused on the topic of wealth distribution and he wrote or co-authored four books on the subject in the late 1940s and early 1950s. Through the presentation and analysis of abundant statistics on income and wealth distribution in the United States, Keller intended to demonstrate that income distribution was essentially fair, despite popular impressions to the contrary. More importantly, he noted that the problem of wealth creation is prior to the question of distribution. The relatively high standard of living obtaining among Americans in general was a result of "labor-aiding Tools," acquired by "individuals who do not spend all of their income for consumer goods and services but save part of their income and invest it in Tools."[29] Acknowledging some disparity in income levels, Keller nonetheless defended the important role of the "rich" in the economy. Roosevelt's new tax policy of 1933, he argued, stifled the economy by skimming off a large part of the savings of those in higher income brackets—those very people, that is, whose investment of this excess income would have provided the capital to increase productivity and create new wealth.[30]

In 1947, Keller brought his perspective on the economy to the pages of a popular Catholic periodical, *Ave Maria*. Keller's burden in a three-part series of articles was to demonstrate that his assessment of the American economy and the policy implications of that assessment were not at odds with Church teachings conveyed through the papal social encyclicals such as *Rerum Novarum* and *Quadragesimo Anno*.

Though he did not specifically criticize bishops' statements, Social Action Department personnel, or any other Catholic writers, Keller clearly assumed that there existed a presumptive position among many Catholics—a position that was highly critical of the American economy and against

28. *Id.* at 19. Keller has not been the only scholar to argue that Roosevelt's policies prolonged rather than ameliorated the Depression. *See e.g.* Gary Dean Best, *Pride, Prejudice, and Politics: Roosevelt Versus Recovery, 1933-1938* (Praeger 1991) (While Best's thesis that Roosevelt's antagonism toward business prevented economic recovery remains controversial, it is generally accepted that many New Dealers shared a belief that big business represented the main obstacle to recovery.); *see also* Alan Brinkley, *The End of Reform: New Deal Liberalism in Recession and War* (Vintage 1996).

29. Edward A. Keller, *The National Income and Its Distribution* 21 (U. Notre Dame 1947).

30. *See generally* Edward A. Keller & Frank A. Brady, Jr., *National Income in the United States* (Am. Econ. Found. 1954); Edward A. Keller & Frank A. Brady, Jr., *An Inventory of Wealth in the United States* (Am. Econ. Found. 1951); Edward A. Keller, Fred G. Clark & Richard Stanton Rimanoczy, *Who Gets How Much for Doing What in America: A Primer on the Distribution of Income and Property in the United States* (Am. Econ. Found. 1948); Keller, *supra* n. 29, at 21.

which his own position stood in contrast. "[T]he encyclicals do not condemn our economic system of free enterprise," he wrote in an opening salvo, "but instead give a strong moral foundation for such a system."[31] The main economic problem, he further argued, was not "extreme concentration of wealth and income but rather a lack of balance among different worker groups and different geographical segments of the economy."[32]

Keller did not dispute that, in *Quadragesimo Anno*, Pope Pius XI condemned "unlimited competition," or laissez-faire capitalism. He simply denied that such a system was ever "the dominant ruling principle of our economic system even though at present the attitude of some groups."[33] He observed that the pontiff did not condemn great wealth, per se, but merely insisted on the responsibility to use such wealth to the benefit of others. In the United States, Keller pointed out, superfluous income had been largely invested in capital, fulfilling admirably *Quadragesimo*'s exhortation to use wealth to increase employment opportunities.[34]

With other Catholic social thinkers, Keller viewed Catholic social teaching as charting a course "between the two extremes of nineteenth century individualism and socialism."[35] The Church upheld the notion of private property as an individual right, yet emphasized the social responsibilities of ownership. It saw a positive role for the state to play in the economy, yet placed limits on it and warned of the dangers of excessive government interference.[36]

Keller noted Leo XIII's enjoinder that ownership ought to be widely distributed and not restricted to an elite class. Citing the widespread ownership of homes, automobiles, and other goods, Keller claimed, "This ideal comes closer to realization in the United States than in any other country in the world."[37] Similarly, productive wealth was widely distributed, with a half-million American corporations and thousands of stockholders in the larger corporations.[38]

Keller did not pretend that no economic hardship existed. "There are serious weaknesses in the national economy,"[39] he wrote; this fact necessitated locating and addressing those weaknesses and not being distracted by false problems such as the gap between rich and poor. The major source of

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31. Edward A. Keller, *The Church and Our Economic System [I]*, Ave Maria 263, 263 (Mar. 1, 1947).

32. *Id.*

33. *Id.* at 264.

34. *Id.* at 264-65.

35. Edward A. Keller, *The Church and Our Economic System [II]*, Ave Maria 304, 304 (Mar. 8, 1947).

36. *Id.* at 304-05.

37. *Id.* at 306.

38. *Id.* at 306-07.

39. Edward A. Keller, *The Church and Our Economic System [III]*, Ave Maria 339, 339 (Mar. 15, 1947).

distortion in distribution in the American context, according to Keller, was the differences between worker groups—namely, "between agricultural workers and the non-agricultural workers, and between the highly-organized, highly-paid workers and the unorganized, lower-paid workers."[40] Keller was especially concerned for southern share-croppers, who lived in a state of "almost complete dispossession of the land."[41] The solution to the problem, he argued, lay in industrialization and diversification in agriculture.[42]

Such points of economic weakness, Keller urged, should not lead to hyperbolic claims about extreme concentration of wealth and class division. The stakes in the debate about the situation of the American worker were high: to exaggerate the plight of the relatively well-off American worker, he warned, would be "terribly dangerous . . . feed[ing] fuel to the spreading fire of world communism."[43]

I have placed both Kenkel and Keller on the conservative side, but the two, in fact, differed in significant ways. Keller's assessment of contemporary American economic life was much more positive than was Kenkel's. Kenkel's opposition to the New Deal was driven by fear of state expansion; Keller's was based more on his perception of its failings as economic policy. In fact, Kenkel and Engelen's criticism of Ryan (reflected in Engelen's term *liberal* in the correspondence cited at the head of this article) arose in large part from their belief that Ryan had accepted too completely the premises of modern economic life. Kenkel and the CCV held out for older forms of economic organization, a corporatist economy organized around occupational associations that were similar, if not identical, to medieval guilds. In this way, the lines between progressive and conservative Catholics were tangled. In their anti-statism, Kenkel and Keller were allies; in their acceptance of industrial capitalism, Ryan and Keller shared a common perspective versus Kenkel's.

By the 1960s, there were indications that polarization among Catholics had intensified. In 1955, for example, Russell Kirk and Erik von Kuhnelt-Leddihn, who had previously published in *America*, the Jesuit weekly, were turned down by that publication. Both had begun writing for *National Review* and had thereby placed themselves outside the mainstream of Catholic social thought. In 1961, the perception that Catholic discord prevented constructive political action led *Ave Maria* editor Donald Thorman to call for a truce between the two camps for the purpose of supporting a common program based on areas of agreement. In the same year, the publication of Pope John XXIII's social encyclical, *Mater et Magistra*, elicited a critical response from *National Review*, which in turn set off a bitter exchange be-

40. *Id.*
41. *Id.* at 340.
42. *Id.* at 341.
43. *Id.* at 339.

tween William Buckley and Catholic periodicals such as *Commonweal* and *America*.[44]

It is impossible to trace the effects of all of the meaningful events of the 1960s on Catholic conservatism. A short list of such phenomena would include the Second Vatican Council, the civil rights movement, and the escalation of the war in Vietnam and the domestic unrest associated with it.[45] In this simplified version of the story, with its focus on economic policy, Lyndon Johnson's War on Poverty was the pivotal development of the decade.[46] The Great Society programs were not duplicates of the New Deal, but they served a similar role for a new generation of Catholics. The question whose answer divided Catholic conservatives and progressives was not, Should the poor be helped? It was, Are programs funded and administered by the national government the most effective way of accomplishing that goal?

In the 1970s, shifting allegiances and crossed dividing lines continued to characterize the relationship between Catholic conservatives and progressives. Michael Novak, starting out as a Catholic liberal, moved to the right; Garry Wills went the other way. Older conservatives such as William Buckley and Russell Kirk remained identifiable loci within American conservatism, but newer recruits provided excitement and spurred internecine debates.[47]

The Supreme Court's decisions in favor of legal abortion in *Roe v. Wade*[48] and *Doe v. Bolton*[49] injected a new issue into American politics, with long-term ramifications for Catholics. As the Democratic Party gradu-

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44. Allitt, *supra* n. 26, at 89-97. For an overview of American Catholicism from 1945 through the early sixties, including a discussion of the various approaches to social issues, see David O'Brien, *Public Catholicism* ch. 8 (Macmillan 1989).

45. For a brief treatment of American Catholicism from 1960-1973, see *id.* at 230-42. For an overview of American conservatism in the 1960s, see *The Conservative Sixties* (David Farber & Jeff Roche eds., Peter Lang Publg. 2003). On Catholic intellectual life in the 1960s, with a focus on higher education, see Philip Gleason, *Contending with Modernity: Catholic Higher Education in the Twentieth Century* ch. 14 (Oxford U. Press 1995).

46. For a history of Great Society programs (including those associated with the War on Poverty), see John A. Andrew III, *Lyndon Johnson and the Great Society* (Ivan R. Dee 1998).

47. Novak's and Wills' intellectual odysseys are detailed in Allitt, *supra* n. 26, at ch. 7. Allitt deftly shows the underlying consistency in what appeared, in both cases, to be dramatic moves from one side of the political spectrum to the other. On the battle between neo- and paleoconservatives, see Nash, *supra* n. 26, at 337-39.

There is not a perfect identity between Catholic neoconservatism (treated in the next section) and neoconservatism more generally. Most of the best-known political neoconservatives are Jewish, and paleoconservatives differ most strenuously with them on issues such as immigration, trade, and the projection of American power abroad. Catholic "cultural radicals" (see below) and progressives, meanwhile, object mainly to Catholic neoconservative judgments on the relative beneficence of capitalism vis-à-vis other economic systems, and the degree to which government should intervene in the economy. (Disagreements about the use of military force also separate Catholic neoconservatives and progressives, but this essay will not address that topic.)

48. 410 U.S. 113 (1973).

49. 410 U.S. 179 (1973).

ally (and with notable exceptions) became aligned with the pro-abortion lobby, Catholic progressives who remained dedicated to Church teaching on the issue struggled to find a political home. As the Republican Party gradually (and with notable exceptions) became identified with the anti-abortion cause, Catholic conservatives gained leverage to shift co-religionists into a more favorable view of the conservative platform more generally.[50]

Catholic Neoconservatives

As it became increasingly clear that the War on Poverty was a failure—or at least was inadequate to the goal of eliminating poverty—many conservatives interpreted the lesson of the failure to be that government aid tended to get bogged down in bureaucracy and that perverse incentives created by welfare programs unintentionally led to more of the problems that the programs were supposed to address.[51] More significantly, some figures previously associated with the Left began to draw similar conclusions. As with all such labels, the common moniker masks important distinctions, but those who came to be called "neoconservatives" became important public voices from a conservative Catholic perspective. Figures such as Richard John Neuhaus and Michael Novak added novel elements to the Catholic anti-progressive heritage, but they also continued to sound traditional themes.[52] The remainder of this article will focus on this newer form of Catholic conservatism.[53]

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50. Kenneth D. Wald summarizes Catholic political attitudes since 1950 and detects a leftward shift, especially among the bishops and their policy bureaus. Kenneth D. Wald, *Religion and Politics in the United States* 267-81 (3d ed., CQ Press 1997). From a more conservative perspective, Michael Warner shares this assessment at least with respect to the bishops' conference. Warner, *supra* n. 12, at ch. 5-7. Wald discusses Catholics and the politics of abortion, a discussion that clearly favors the "seamless garment" approach. Wald, *supra* n. 50, at 281-93. Recent studies have demonstrated the significance of distinguishing between active and inactive Catholics in gauging political views. *See* QEV Analytics, *Catholic Voter Project*, http://www.qev.com/reports.political.catholic.htm (accessed Sept. 16, 2005) (compiles and analyzes Catholic voting data tracking political trends).

51. Works influential in forming conservative opinion on government welfare programs were Charles Murray, *Losing Ground: American Social Policy, 1950-1980* (Basic Books 1984), and Marvin Olasky, *The Tragedy of American Compassion* (Regnery Publg. 1992). For a debate on the lessons of the Great Society within progressive ranks, see *The Great Society and Its Legacy: Twenty Years of U.S. Social Policy* (Marshall Kaplan & Peggy L. Cuciti eds., Duke U. Press 1986); its conclusion includes a brief critique of Murray's arguments.

52. For a description of the neoconservative Catholic perspective from a movement partisan, see George Weigel, *The Neoconservative Difference: A Proposal for the Renewal of Church and Society*, in *Being Right: Conservative Catholics in America* 138 (Mary Jo Weaver & R. Scott Appleby eds., Ind. U. Press 1995). Weigel explains the neoconservative position vis-à-vis "conservatives" and "liberals." His focus is on neoconservatism's theological and ecclesiastical implications rather than its economic policy.

53. This focus in no way implies that Catholic conservatives do not remain a variegated lot. Catholic "cultural radicals" such as David Schindler might fit better, historically speaking, into the Frederick Kenkel wing of conservatism—critical of the state and the contemporary Left, but also deeply suspicious of American capitalism. *See* Mark Lowery, *The Dialogue between Catholic*

Not unlike Edward Keller, conservative Catholics such as Neuhaus and Novak stress the creation of wealth rather than its distribution when they consider strategies to ameliorate poverty. "The poor should be approached as creators of wealth," Michael Novak wrote, three years before welfare reform passed in 1996. "They should be assisted in their efforts to make themselves asset-producers rather than mere consumers. The revolution needed in the welfare system—now a dependency-maintaining socialism—is to transform it into an asset-building system."[54]

Conservative Catholics also stress the importance of intermediate institutions in the addressing of social problems, including poverty.[55] This emphasis conforms to the principle of subsidiarity, one of the guiding concepts in the modern era of Catholic social teaching. Perhaps the most forceful statement of the concept came in Pope Pius XI's 1931 encyclical, *Quadragesimo Anno*:

> Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do.[56]

The way in which this emphasis on mediating institutions fits easily into wider American political and intellectual traditions is indicated by the fact that one of the most important texts on the subject was written by two non-Catholics, Peter Berger and Richard John Neuhaus. *To Empower People: From State to Civil Society* (1977) argued that families, churches, neighborhoods, and other local institutions might better serve the welfare functions that had increasingly been assimilated by the state. In a revised edition twenty years later, Berger and Neuhaus (the latter now Catholic), reiterated the point:

'Neoconservatives' and Catholic 'Cultural Radicals': Toward a New Horizon, 3 Cath. Soc. Sci. Rev. 41 (1998).

54. Michael Novak, *The Catholic Ethic and the Spirit of Capitalism* 164 (Free Press 1993). It is interesting to compare Novak's critique of the welfare state and recommendations for overcoming poverty with those of welfare state critics of the Left—for example, Thomas F. Jackson, *The State, the Movement, and the Urban Poor: The War on Poverty and Political Mobilization in the 1960s*, in *The "Underclass" Debate: Views from History* 403 (Michael B. Katz ed., Princeton U. Press 1993). Novak and Jackson differ significantly in many respects (for example, Jackson stresses political solutions while Novak focuses on private solutions), but both emphasize empowerment of the poor and both describe the limitations of the existing welfare structure in similar ways (e.g., the tendency of funds earmarked for the poor to be consumed instead by middle-class bureaucrats and social service professionals).

55. *Cf.* Michael Novak, *Freedom with Justice: Catholic Social Thought and Liberal Institutions* 47, 201-08 (Harper & Row 1984).

56. Pope Pius XI, *Quadragesimo Anno*, No. 79 (May 15, 1931) (available at http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html).

> [N]othing has happened in the intervening period to make us change our minds about the strategic importance of these intermediate institutions in a modern society. . . . [T]he basic configuration of modern society . . . pits vast, anonymous, and potentially oppressive megastructures against the vulnerable personal worlds of individuals. Foremost among these megastructures, of course, is the modern state.[57]

Thus the antistatist strand in conservative Catholicism persists, but its source is not the libertarian view that the state is a threat because it might prevent the individual from doing whatever he wants.[58] Instead, inordinate reliance on the state threatens to vitiate the institutions that most effectively promote the common good. "I delink social justice from an uncritical reliance on the blind leviathan of the state," Novak wrote in his 1993 *The Catholic Ethic and the Spirit of Capitalism*,

> and link it, instead, to the concrete intelligence operative in individuals and their free associations within the "civic forum". . . . The role of the state, I argue, is to strengthen the fertile and creative actions of civil society, not to derogate from them or (God forbid) supplant them.[59]

Concern for intermediate institutions points to another major component of conservative Catholic thought: its critical appreciation of capitalism. Two passages from Pope John Paul II's 1991 encyclical, *Centesimus Annus*, are essential in this connection.

The first is the "if by capitalism . . ." passage, which distinguishes two fields of meaning that might be connoted by the term *capitalism*.[60] The pope approves of that capitalism "which recognizes the fundamental and positive role of business, the market, private property and the resulting responsibility for the means of production, as well as free human creativity in

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57. Peter L. Berger & Richard John Neuhaus, *To Empower People: From State to Civil Society* 145 (Michael Novak ed., 2d ed., AEI Press 1996). The emphasis on intermediate institutions ("associations") in American life was famously observed by Alexis de Tocqueville in *Democracy in America* (1835, 1840), vol. 1, pt. II, ch. 4 and vol. 2, pt. II, ch. 5. German Jesuit Oswald von Nell-Breuning, who drafted much of *Quadragesimo*, noted in a 1969 article the similarity between the principle of subsidiarity and the idea articulated by Abraham Lincoln in the following quotation: "The legitimate object of government is to do for a community of people whatever they need to have done but cannot do . . . for themselves in their separate and individual capacities. In all that people can individually do for themselves government ought not to interfere." Oswald von Nell-Breuning, *Subsidiarity*, in *Sacramentum Mundi: An Encyclopedia of Theology* vol. 6, 114, 115 (Karl Rahner et al. eds., Herder & Herder 1970).

58. On divisions between "libertarians" and "conservatives" within the American conservative movement, see Nash, *supra* n. 26, at ch. 11, epilogue. Allitt notes that libertarianism held little attraction for most Catholic conservatives. Allitt, *supra* n. 26, at 73, 93, 247-48.

59. Novak, *supra* n. 54, at xvi.

60. Pope John Paul II, *Centesimus Annus*, No. 42 (May 1, 1991) (available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html).

the economic sector."[61] But he condemns a capitalism "in which freedom in the economic sector is not circumscribed within a strong juridical framework which places it at the service of human freedom in its totality, and which sees it as a particular aspect of that freedom, the core of which is ethical and religious."[62] Troubled by the possibility of confusion, the pope suggests the term *free economy* as a substitute for *capitalism.*[63]

Catholic conservatives embrace this distinction, not wishing to endorse the many abuses that have occurred, and do occur, in capitalism's name. Neuhaus, who with Novak likes the term *democratic capitalism*, nonetheless recognizes the distinction. "Neither the United States nor any other developed Western country," he conceded in his 1992 book, *Doing Well and Doing Good*, "represents adequately the 'free economy' for which the Pope is calling."[64] Conservative Catholics repeat time and again in similar words Novak's appraisal, "Democratic capitalism is a poor system, but the known alternatives are worse."[65] This type of skepticism toward utopianism plays a large role in conservative Catholic thought. "The perfect is the enemy of the good" is another phrase that appears repeatedly.[66]

The other key passage from *Centesimus* reflected in conservative views of capitalism is the caveat, "But there are many human needs which find no place on the market."[67] The economic dimension of life, Neuhaus asserts, is "not all-important. The dimension we call political, one might argue, is at least as important, and the cultural is more important than both."[68] "Human beings are endowed with reason, virtue, and grace," he continues, "but are also wounded by sin and inclined to evil. The market has no morality of its own; it simply reflects the morality and immorality of those who participate in it. The common good . . . therefore depends upon the vitality of the political and, above all, moral-cultural spheres."[69] "[T]he needs that cannot be left to the market," Neuhaus further observes, "are the needs most essential to human dignity and fulfillment."[70] Novak contends likewise: "Neither the preservation of free political space achieved by democracy nor the achievement of liberation from oppressive poverty wrought by capitalism are sufficient . . . to meet the human desire for truth and justice."[71]

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61. *Id.*

62. *Id.*

63. *Id.*

64. Richard John Neuhaus, *Doing Well and Doing Good: The Challenge to the Christian Capitalist* 43 (Doubleday 1992); *see also* Novak, *supra* n. 54, at 135.

65. *Id.* at 148.

66. Novak, *supra* n. 55, at 17.

67. Pope John Paul II, *Centesimus Annus*, *supra* n. 60, at No. 34.

68. Neuhaus, *supra* n. 64, at 49.

69. *Id.* at 58-59.

70. *Id.* at 55.

71. Novak, *supra* n. 54, at 120.

After 1989, communism did not disappear as an important force in conservative Catholic analysis, though its role was modified as world events dictated. Its status as a national security threat and a viable domestic alternative that must be avoided diminished. Instead, the fall of socialism in the Soviet Union and Eastern Europe became an object lesson in the dangers of government arrogation of economic power.

The conservative viewpoint seemed to be corroborated by John Paul II's explanation of communism's demise in *Centesimus Annus*. The "fundamental error of socialism," the pope wrote, "is anthropological in nature."[72] Communism subordinated the good of the individual person to "the functioning of the socio-economic mechanism" and maintained that the good of the person could be "realized without reference to his free choice."[73] John Paul's analysis of the failure of communism was tied to his criticism of the "welfare state," an excessive enlargement of government, which imperiled "both economic and civil freedom" and neglected subsidiarity.[74] Conservatives celebrated the pope's focus on freedom and, especially, his recognition of the importance of economic liberty.[75]

Obviously there are many Catholics who take conservative policy positions while ignoring the exhortations of Catholic social teaching concerning the universal destination of material goods, the preferential option for the poor, solidarity, and the common good. But that there are many conservative Catholics who are dedicated to these principles should no longer be in dispute. Surveys and studies have indicated as much. Progressive Catholic Peter Steinfels, commenting on one study, put the salient point aptly enough in a 1999 column in the *New York Times*: whether conservatives are "right in their prescriptions for relieving poverty is a question distinct from whether they are anti-poor. . . ."[76]

Steinfels' allowance that the difference between Catholic conservatives and progressives might be disagreements over means rather than ends opens up the possibility of meaningful dialogue.[77] Undoubtedly, vigorous debate and disagreement between conservative and progressive Catholics on a range of contestable topics will continue indefinitely, but there may be

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72. Pope John Paul II, *supra* n. 60, at No. 13.

73. *Id.*

74. *Id.* at No. 48. The Pope had already cited a "right to economic initiative" in *Sollicitudo Rei Socialis*, No. 15 (Dec. 30, 1987) (available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_30121987_sollicitudo-rei-socialis_en.html).

75. Novak integrates the idea into his discussion of liberty in *The Catholic Ethic*, *supra* n. 54, at ch. 4.

76. Peter Steinfels, *Beliefs*, N.Y. Times A13 (May 1, 1999).

77. Thomas Massaro, *Catholic Social Teaching and United States Welfare Reform* (Liturgical Press 1998) is a good example of a substantive contribution to such dialogue from the progressive side. Massaro's sophisticated application of Catholic social teaching to welfare reform never calls into question the motives of those who have opposing viewpoints. His chapters seven and nine, moreover, represent a meaningful attempt to find common ground on particular issues, an intention that the final segment of this essay shares.

some ways in which conservatives and progressives—Catholics and others—can find grounds for cooperation on issues of current import. The issues revolve around the question of the extension of market thinking into conventionally non-market realms.

Conservatives and progressives agree that the education of children, for example, cannot be totally subject to market forces. But recent experience with vouchers suggests that certain market phenomena, such as choice and incentives, can be introduced into education with beneficial results, and that support for such measures (as demonstrated in cities such as Milwaukee and Washington, D.C.) can reach across the usual conservative-progressive divide.[78]

Conversely, conservatives and progressives can agree that market logic must be rolled back from areas it has illegitimately invaded, such as family life. As progressive Catholic Sidney Callahan put it in a 1984 book, abortion "corrupts the parent-child bond by emphasizing . . . the idea that parental obligations to children are intentional contracts."[79] Along the same lines, Catholic conservative Jennifer Roback Morse, an economist at the Hoover Institution, warns that the formation of free and responsible citizens can only occur in families in which self-interested calculation is subordinated to the virtue of charity. "[T]he freer we hope to be from artificial economic and political constraints," Morse maintains, "the more we need loving families."[80] Conservative and progressive Catholics will probably never unite under the auspices of a seamless garment, but these examples suggest that they may occasionally find some common ground.

Conclusion

Whatever the prospects for cooperation between the two (or more) traditions in American Catholic social thought, this essay hopes to have demonstrated the force and the thoughtfulness of approaches that lay outside the progressive mainstream, which dominated episcopal conference policy circles and Catholic academia for most of the twentieth century. The best conservative Catholic thinkers have digested the teaching of the social encyclicals, taken into account their understanding of the operation of social, political, and economic life, and determined how the principles of the

78. For example, the section 527 political organization All Children Matter, bankrolled by Republican activist Dick DeVos, supported pro-school-choice candidates of both Democratic and Republican parties in the 2004 elections in states such as Florida, Wisconsin, and Colorado. On the positive impact of school choice, see Jay P. Green & Marcus A. Winters, *Competition Passes the Test*, 4 Education Next 66-71 (Summer 2004), and the many papers and studies of Caroline Hoxby, linked from her Web page at the economics department of Harvard University (http://post.economics.harvard.edu/faculty/hoxby/papers.html).

79. Sidney Callahan, *Commentary to Chapter 12*, in *Abortion: Understanding Differences* 328 (Sidney Callahan & Daniel Callahan eds., Plenum Press 1984).

80. Jennifer Roback Morse, *Love & Economics: Why the Laissez-Faire Family Doesn't Work* 4 (Spence Publg. 2001).

social teaching apply to contemporary political and economic problems. In other words, they have reflected rationally on the world confronting them and acted in ways intended to bring about a world that is more just and more respectful of the dignity of all human beings. Such is the perennial task laid before all Catholics, and all people of good will.

ARTICLE

THE CONSISTENT ETHIC OF LIFE: A PROPOSAL FOR IMPROVING ITS LEGISLATIVE GRASP

HELEN M. ALVARÉ*

I. INTRODUCTION: THE CONSISTENT ETHIC—ITS REACH AND ITS GRASP

In 1984, in a series of lectures delivered alternatively on the occasion of the United States' bishops' publication of their war and peace pastoral,[1] and on the subject of abortion, Cardinal Joseph Bernardin offered a tool he called the "consistent ethic of life."[2] The consistent ethic proposed that the Church's positions on issues ranging from the taking of human life to attaining a dignified standard of living should be understood and spoken of as a morally coherent whole, given their common source in the notion of the respect due every human life.[3] It was hoped that the consistent ethic would assist those laboring on diverse social justice issues to understand their common goals and the interdependence of their work.[4] This ethic does not demand that all groups work on all issues, but does require that all seek to understand and support one another's work on different but related matters, and, at a minimum, refrain from opposing one another.[5] By reducing friction and maximizing cooperation between the groups working against killing and those working for dignity of life, the consistent ethic was also

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1. U.S. Conf. of Catholic Bishops, *The Challenge of Peace: God's Promise and Our Response* (U.S. Catholic Conf. 1983) (available at http://www.osjspm.org/cst/cp.htm).

2. Joseph Cardinal Bernardin, *A Consistent Ethic of Life: An American-Catholic-Dialogue* (Fordham U., Dec. 6, 1983) (available at http://www.hnp.org/publications/hnpfocus/BConsistentEthic1983.pdf).

3. *Id.* at 5–6.

4. *Id.* at 3.

5. *Id.*

intended to foster increased respect for all its concerns and possibly to improve the legislative chances of each of them.[6]

The longevity and power of the consistent ethic *within* the Church is evident in the agenda promoted even today by the U.S. Conference of Catholic Bishops' (USCCB) Office of Social Development and World Peace, an agenda that is well summarized in a document issued every four years entitled "Faithful Citizenship."[7] The document takes up the issues of abortion, world peace, development, racism, hunger, health care, freedom of faith, fair employment, education, and housing, among others. It ties them together with the observation that

> [t]he central question should not be, "Are you better off than you were four years ago?" It should be, "how can 'we'—all of us, especially the weak and vulnerable—be better off in the years ahead? How can we protect and promote human life and dignity? How can we pursue greater justice and peace?"[8]

Other recent communications from the Catholic bishops to the government showcase the consistent ethic. A 2005 letter from Cardinal William Keeler as Chair of the USCCB's Pro-Life Committee (concerning the threatened U.S. Senate filibustering of pro-life judicial nominees) is characteristic:

> [T]his ethic [commitment to the right to life] has profound consequences not only for abortion, but for many other areas of life, including the death penalty, the application of scientific research to human subjects, the right to adequate health care, and the role of the state in promoting the common good.[9]

The consistent ethic is justifiably a source of pride and inspiration for Catholics. Yet there is no concrete evidence that it has become a persuasive, motivating power in lawmaking. Its limited impact can be more clearly sensed, perhaps, by reflecting upon themes that *have* moved law-

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6. *Id.* at 5 ("The purpose of proposing a consistent ethic of life is to argue that success on any one of the issues threatening life requires a concern for the broader attitude in society about respect for human life.").

7. U.S. Conf. of Catholic Bishops, *Faithful Citizenship: A Catholic Call to Political Responsibility* (U.S. Catholic Conf. 2003) (available at http://www.usccb.org/faithfulcitizenship/faithfulcitizenship03.pdf).

8. *Id.* at 2.

9. U.S. Conf. of Catholic Bishops, Press Release, *Cardinal Keeler Urges Senate to Reject Pro-Abortion Test for Judicial Nominees* (Jan. 6, 2005) (available at http://www.nccbuscc.org/comm/archives/2005/05-004.shtml). Cardinal Theodore McCarrick's 2004 statements in the context of a response to Catholic politicians' abortion advocacy: "Now is a time for us to recommit ourselves to actively and unequivocally teaching our people about the sacredness of human life and human dignity and our call to care for the least among us." U.S. Conf. of Catholic Bishops, *Interim Reflections Task Force on Catholic Bishops and Catholic Politicians* (June 15, 2004) (available at http://www.usccb.org/bishops/intreflections.shtml). One paragraph later in this same document, he continues: "We believe all life is precious and deserves protection, especially unborn human life. We believe the Gospel teaches that the poor deserve special priority. We share our Holy Father's passion for peace and justice." *Id.*

making during the past two presidential administrations. One such theme is that of reducing the federal government's responsibility for social welfare benefits and increasing private responsibility, a theme showcased in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,[10] which reduced lifetime entitlements to welfare benefits to 60 months[11] and required more work of recipients.[12] Or consider the legislative theme of incentivizing the assumption of private, consumer responsibility for securing services essential to quality of life, particularly health care[13] and dependent care.[14] This same theme is also present in the current debate regarding possible changes to the social security system,[15] in new education laws that permit "charter" schools[16] and vouchers for private education.[17]

Compared with the forward march of these themes, the consistent ethic has not enjoyed prominent success. Abortion on demand remains legal,[18] and federal and state legislative agendas are not addressing with any alacrity or visibility the causes of poverty. This is not to assert that discrete issues along the consistent ethic have not made discrete progress, but rather simply to observe that a noteworthy message of linkage or "consistency" between issues has not tended to arise in campaigns for passage of legislation on consistent ethic issues. The consistent ethic was also absent from

10. 42 U.S.C. §§ 601–619 (2000).

11. *Id.* at § 608.

12. *Id.* at §§ 602, 607.

13. 26 U.S.C. § 125 (2000).

14. *Id.* at § 129.

15. The Republican Party proposes "personal retirement accounts" for younger workers to invest a portion of their income, rather than to turn it over to the Social Security Administration. *See* Republican Natl. Comm., *Fact Sheets, Strengthening Social Security for the 21st Century* ¶ 6, http://www.gop.com/news/read.aspx?ID=5159 (Feb. 10, 2005); *see also* Howard Gleckman & Richard S. Dunham, *Social Security: It'll Take a Helluva Sales Job*, Bus. Week 32 (Feb. 7, 2005).

16. According to a leading website for charter schools:

> Charter schools are nonsectarian public schools of choice that operate with freedom from many of the regulations that apply to traditional public schools. The "charter" establishing each such school is a performance contract detailing the school's mission, program, goals, students served, methods of assessment, and ways to measure success. The length of time for which charters are granted varies, but most are granted for 3–5 years. At the end of the term, the entity granting the charter may renew the school's contract. Charter schools are accountable to their sponsor—usually a state or local school board—to produce positive academic results and adhere to the charter contract. The basic concept of charter schools is that they exercise increased autonomy in return for this accountability. They are accountable for both academic results and fiscal practices to several groups: the sponsor that grants them, the parents who choose them, and the public that funds them.

U.S. Charter Schools, *Overview*, http://www.uscharterschools.org/pub/uscs_docs/o/index.htm (accessed Sept. 10, 2005); *see also* Natl. Charter Sch. Clearinghouse, *FAQs*, http://www.ncsc.info/mod.php?mod=userpage&menu=916&page_id=80 (accessed Sept. 10, 2005).

17. *See e.g. Zelman v. Simmons-Harris*, 536 U.S. 639 (2002) (upholding a Cleveland voucher program that allows public monies to be used for vouchers to attend private, including religious, schools).

18. *See Planned Parenthood of S.E. Pa. v. Casey*, 505 U.S. 833 (1992) (upholding a right to abortion even in the last trimester of a pregnancy if a woman's life or health, including emotional health or distress, are at risk).

the 2004 presidential election campaign, which focused on the economic well-being of the majority and on the war in Iraq, not on the defense of life itself or the dignity of life.

While reasons of length forbid me from taking up all possible issues within the consistent ethic, Section II of this article will consider some of the existing obstacles to the passage of consistent ethic legislation, specifically on the high-profile subjects of abortion, educational opportunity, and poverty reduction. In Section III, I will suggest that there are opportunities—empirical, political, legislative, and philosophical—in linking abortion, poverty, and educational attainment that might assist in overcoming obstacles to realizing consistent ethic legislation. In Section IV, I will also assess the role that the Church might play in accomplishing such a legislative strategy, including a discussion of some internal obstacles to its participation, and some strategies for overcoming them.

II. Obstacles to the Legislative Success of the Consistent Ethic of Life

There are several outstanding obstacles to realizing a consistent ethic legislative agenda. They include party politics and money, and the differing notions of "freedom" and "justice" embraced by the different groups that take up the banner of respect for life, or improved dignity of life.

Regarding party politics, part of what has hobbled the implementation of the consistent ethic are the separate parties which have become associated in the common mind with the two types of causes—roughly defined—embraced by the ethic: Democrats with "dignity of life," and Republicans with "right to life." (The Republicans' phrasing of this matter differs from that of the Catholic Church—the Church adopted the phrase "respect life" to emphasize positive obligations in addition to the obligation to refrain from killing unborn life; I will continue to use this phrase throughout this Article to characterize the Church's position.) This separation is reinforced by interest groups that also tend to take up one or the other type of issue, and to work far more closely with one instead of both parties, and who thus propel into political office candidates who agree with them on one or a few issues at most. As a result, individual politicians who embrace most or all of the consistent ethic are difficult to find. While there are some groups that explicitly or generally support the range of issues within the consistent ethic—such as the U.S. Conference of Catholic Bishops, state Catholic bishops conferences, Pax Christi,[19] Sojourners,[20] and Feminists for Life[21]—

19. Pax Christi USA, *About Us, Statement of Purpose*, http://www.paxchristiusa.org/about_statement_purpose.asp (accessed Sept. 10, 2005) ("Pax Christi USA rejects war, preparations for war, and every form of violence and domination.").

20. Sojourners, *About Us, Mission*, http://www.sojo.net/index.cfm?action=about_us.mission (accessed Sept. 10, 2005) ("Sojourners is a Christian ministry whose mission is to proclaim and practice the biblical call to integrate spiritual renewal and social justice.").

they do not appear to be the driving political forces behind the most visible candidates, party messages, or the national legislative agenda.

Furthermore, the sources of the most significant money flowing to candidates and parties are unconcerned with the consistent ethic. Democrats receive some of their largest contributions from unions not focused upon pro-life matters, including those of teachers, corporations, and trial lawyers.[22] They also receive millions of dollars from abortion advocates such as EMILY's List.[23] Republicans also receive large donations from corporations, doctors, and trade associations. While pro-life money flows to Republicans, these amounts are modest compared with the amounts given by their other donors and with the amount of abortion advocacy money given to Democrats.[24] In sum, one can reasonably conclude that the larger political contributions are not about assisting vulnerable groups in behalf of their dignity of life, and are not about stopping abortion and other direct attacks on human life. But where money is given on the abortion issue in particular, pro-life money goes to Republicans and abortion advocacy money goes to Democrats.

One might also attempt a philosophical explanation as to why the consistent ethic has failed to take prominent legislative hold. There appears to be an important gap in underlying beliefs about the nature of freedom and justice between groups primarily taking up respect for life issues and those taking up dignity of life issues. Groups working mostly on respect for life issues—such as abortion, euthanasia, and assisted suicide—appear to understand themselves to be fighting a war against lies and on behalf of truth. They firmly believe that if people were to open their eyes and really *see* the law or the practice of abortion or assisted suicide, they would accept the truth about vulnerable human life, and no longer accept its destruction. Then, there would be true freedom and justice, both for the unborn child and for the woman. Efforts of pro-life groups today—including the prominent National Right to Life Committee[25]—are thus heavily weighted toward education about the facts of abortion and euthanasia. The Secretariat for Pro-Life Activities of the USCCB even calls itself "an educational apos-

21. Feminists for Life of America, *FFL's Mission*, http://www.feministsforlife.org/who/aboutus.htm (accessed Sept. 10, 2005) ("If you refuse to choose between women and children, . . . [i]f you reject violence, . . . join us.").

22. *See* opensecrets.org, *Top 20 PAC Contributors to Federal Candidates, 2003-2004*, http://www.opensecrets.org/pacs/topacs.asp?txt=A&Cycle=2004 (accessed Sept. 10, 2005).

23. *See* opensecrets.org, *Who Gives, Top All-time Donors, EMILY's List*, http://www.opensecrets.org/orgs/summary.asp?ID=D000000113&Name=EMILY%27s+List (accessed Sept. 10, 2005).

24. *See* opensecrets.org, *Top All-Time Donor Profiles*, http://www.opensecrets.org/orgs/list.asp?Order=A&View=P&Format=Print (accessed Sept. 10, 2005).

25. Natl. Right to Life, http://www.nrlc.org/ (accessed Sept. 10, 2005) (contains information on the basic facts of abortion, embryo destruction, and euthanasia).

tolate," and six of its ten stated objectives are of an educational nature.[26] This message of "freedom as truth" is very visible in pro-life pregnancy centers too, especially with their recent push to acquire sophisticated ultrasound machines (even the new "3-D" machines) so that women can "see" the truth about unborn children.[27]

But for activists concentrating on dignity of life issues—including access to health care, welfare benefits, the living wage, and other issues—freedom and justice are associated more with being in "solidarity" with the less fortunate. The website of the anti-hunger group Second Harvest tells the compelling stories of persons living without enough food.[28] Catholic Charities U.S.A., the largest private provider of charitable care in the United States, describes itself simply as providing "vital social services to people in need."[29]

Yet understanding freedom and justice too narrowly in terms of one or the other of these themes—truth *or* solidarity—can easily lead to a failure fully to pursue the consistent ethic, through which we understand freedom in a unified fashion to include both respecting truth *and* acting in solidarity, especially with those most in need. This idea was explored explicitly, not in the initial series of consistent ethic speeches made by Cardinal Bernardin in the 1980s, but rather later in the 1990s by Pope John Paul II, particularly in his encyclical *Evangelium Vitae*.[30] There, he asserted that it was the denial of the inherent relationship between freedom, truth, and solidarity that had led to the oppression of human persons, whether through killing or through neglect of their basic needs. If freedom without solidarity—without an "inherently relational dimension"[31]—is exalted, he wrote, it ends up "becoming the freedom of 'the strong' against the weak who have no choice but to submit."[32] Other human persons become at least strangers, or possibly even "enem[ies]," and there is encouraged a struggle to make one's

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26. *See* U.S. Conf. of Catholic Bishops, *Pro-Life Activities, About Us*, http://www.usccb.org/prolife/intro.htm (accessed Sept. 10, 2005).

27. Neela Banerjee, *Anti-Abortion Groups Use Sonograms to Make Case*, Pitt. Post-Gazette A3 (Feb. 6, 2005) (stating that the Southern Baptist Convention and Focus on the Family have bought a number of ultrasound machines at a cost of $20,000 to $30,000 each for use in crisis pregnancy clinics, even buying the most expensive machines so that the mother may see her unborn child in three dimensions).

28. Second Harvest, a group raising awareness of and combating hunger, reminds us that sometimes we need to hear and see this most basic issue from a new perspective. The information provided here takes a closer look at: the realities of living on an impossibly tight budget, stories from people nationwide about their experience of hunger, and the incredible efforts being made to create a hunger-free America.

America's Second Harvest, *Features*, http://www.secondharvest.org/site_content.asp?s=5 (accessed Sept. 10, 2005).

29. Catholic Charities USA, *About Us*, http://www.catholiccharitiesusa.org/about/index.cfm?cfid=3705481&cftoken=59390871 (accessed Sept. 10, 2005).

30. Pope John Paul II, *Evangelium Vitae: On the Value and Inviolability of Human Life* (Mar. 25, 1975) (available at http://www.nccbuscc.org/profile/tdocs/evange/evanel:.htm).

31. *Id.* at 34.

32. *Id.*

own interests alone prevail.[33] If freedom "loses its essential link with the truth," he wrote, a human being will "end up . . . taking . . . as the sole and indisputable point of reference for his own choices . . . only his subjective and changeable opinion or, indeed, his selfish interest and whim."[34] Achieving authentic freedom requires respecting the truth about human life, including the inherent illegitimacy of killing, and the right of every person to have their basic human needs met.

Despite these political and even philosophical differences, there is on the horizon an opportunity to help unite or at least "mix" the respect for life and dignity of life constituencies. This opportunity takes the form of the public's emerging and increasingly urgent concern with the survival and health of marriages and families, and it has empirical, political, and philosophical aspects. Empirically—where the greatest opportunities for unifying the constituencies lie—the public is increasingly aware of the demonstrated relationships between educational achievement, poverty, and abortion. Politically, there are some new facts on the ground in the United States indicating broad and possibly bipartisan support for efforts to assist the family. Philosophically, an emerging unity is evidenced by new proposals to assist marriage and the family that are based on both respect for truth and solidarity with the vulnerable. In what follows, I will more fully explore these empirical, political, and philosophical opportunities for unifying the diverse pro-life constituencies.

III. Opportunities to Link Respect for Life with Dignity of Life by Way of the Family

A. *Empirically Speaking*

In the United States, educational attainment and other know-how are the most important things persons can have in order to provide themselves and their families with the means of living in accordance with their human dignity. These assets, dubbed "the new property" in modern legal literature,[35] have far surpassed earlier types of property in their ability to sustain individuals and families. This means, of course, that social justice efforts intended to effect long-term poverty reduction, and thus dignity of life, must focus substantially on the attainment of these assets. This is currently acknowledged not only by the Catholic Church (both at the local and uni-

33. *Id.* at 35.

34. *Id.*

35. *See* Mary Ann Glendon, *The New Family and the New Property* 3 (Butterworth & Co. 1981); *see also* Employment Policy Foundation, *E-Mail Trends: For Most Americans, Being Poor is Temporary*, http://www.epf.org/pubs/newsletters/1998/et980917.asp (Sept. 17, 1988) ("[A]ny strategy to reduce chronic poverty among the lowest skilled, particularly female householders, must focus on upgrading their workplace skills.").

versal levels[36]), but also by the platforms of the Democratic and Republican parties.[37]

It turns out, however, according to some of today's most prominent sociologists of the family, that children reared outside of traditional family settings—i.e., children reared other than by both of their married biological parents—suffer in the area of educational attainment, and thus in income.[38] Low educational attainment, low income, and nontraditional family forms correlate with abortion. These correlations are not seriously disputed in the United States today. Further, these difficulties tend to be suffered disproportionately in the United States by racial and ethnic minorities.

To summarize these correlations: the stability and composition of family life has much to do with the observance or not of respect for life, and with the attainment or not of the dignified standard of living made possible by education. I will explore these relationships in further detail before commenting on their role in the promotion of a consistent ethic of life.

First, with regard to family form and education, recent research confirms that not only single parenthood but also other types of newer family forms are associated with diminished educational outcomes for children.[39] In the words of leading sociologists:

> [C]onsiderable research during the past few years has shown that family structure during childhood and adolescence affects the subsequent life chances of adults. Individuals who live apart from one or both parents when they are growing up are less likely to graduate from high school, more likely to work at low-wage jobs, and more likely to form unstable families themselves than individuals who grow up with both biological parents. . . . These

36. Pope John Paul II, *Centesimus Annus*, No. 32 (May 1, 1991) (available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051771_centesimus-amus.cn.html) (calling know-how a "form of ownership . . . no less important than land" and calling on society to give universal access to this asset which is "decisive to family well being"); H.R. Subcomm. on Human Resources of the Ways & Means Comm., *Hearing on TANF Reauthorization Proposals*, 109th Cong. (Feb. 10, 2005) (available at http://www.usccb.org/sdwp/national/tanftest05.htm) (testimony of Kathleen Curran, U.S. Conf. of Catholic Bishops, stating that any commitment to end poverty must include, in the following order, "jobs, training, education," and the means to take advantage of these, "child care, health care, transportation and other [social supporting mechanisms]").

37. Democratic Natl. Comm., *Strong at Home, Respected in the World: The 2004 Democratic National Platform for America* 32 (Democratic Natl. Comm. 2004) ("Now, as never before, education is the key to opportunity, essential to a strong America."); Republican Natl. Comm., *2004 Republican Party Platform: A Safer World and a More Hopeful America* 53 (Republican Natl. Comm. 2004) (Republican platform emphasizing that education, literacy and learning are the "key to prosperity and fulfillment—the foundation on which all other success is built").

38. *See generally* William Jeynes, *Divorce, Family Structure and the Academic Success of Children* (Haworth Press 2002);Wendy D. Manning & Kathleen A. Lamb, *Adolescent Well-Being in Cohabiting, Married, and Single-Parent Families*, 65 J. Marriage & Fam. 876 (2003); Gary D. Sandefur, Sara McLanahan & Roger A. Wojtkiewicz, *The Effects of Parental Marital Status During Adolescence on High School Graduation*, 71 Soc. Forces 103 (1992).

39. *Id.* at 103.

> findings have been replicated on numerous data sets and they appear to be consistent across a variety of racial and ethnic groups.[40]

These findings are supported by research now spanning decades,[41] and have persisted while research sampling methods and the ability to control for factors like income have steadily improved.[42] Additionally, detailed inquiry into this phenomenon has more recently added that it is not only the presence of two parental figures that matters to children's well-being, but also the parents' marital status. Thus, children living in married or cohabiting stepparent families have been found to suffer educational effects similar to those of children residing with a single parent.[43] A very recent study further concluded that even if children are living with both biological parents, if those parents are cohabiting versus married, the children's well-being will be diminished, including their educational attainment.[44] Summarized the author of this study: "It seems that residing outside a two-biological-parent married family can be negatively related to children's well-being."[45]

The matter of controlling for income deserves some additional attention here, as it has proved a bone of contention for years. The outstanding question is this: Would erasing the income gap erase the differences between children reared in different types of households? Or does family form have effects of its own, unrelated to income? On this matter, one conclusion and one important observation have surfaced. First, the conclusion: it appears that the "effects of family structure and changes in family structure [on educational outcomes] persist after controlling for income."[46] In the words of William Jeynes, who has devoted an entire book to a meta-analysis of every major study of the relationship between family form and education:

> The findings from this study indicate that the family structure a child is from has a considerable impact on that child's academic achievement. While some of the effects are due to the impact that a given family structure has on [socioeconomic status], this study confirms the belief, held by most social scientists, that many other factors are at work as well.[47]

Second, an observation has surfaced with respect to studies of children of divorce: it has been suggested that these studies' methods of controlling

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40. *Id.* at 103–04.
41. Jeynes, *supra* n. 38, at 1–6.
42. *Id.* at 5.
43. *See* Manning, *supra* n. 38, at 876.
44. Susan L. Brown, *Family Structure and Child Well-Being: The Significance of Parental Cohabitation*, 66 J. Marriage & Fam. 351, 364 (2004).
45. *Id.* at 364.
46. *See* Sandefur et al., *supra* n. 38, at 118.
47. Jeynes, *supra* n. 38, at 140.

for socioeconomic data, or teasing out the effects of family "mobility" (the tendency of disrupted families to move to a new location) from the effects of divorce itself, may have underestimated the effects of divorce on children. Indeed, attempts to control for income and mobility in studies of children of divorce may constitute a quixotic venture, as divorce is commonly accompanied by such disruptions and by income drops.[48] It also hints that these types of consequences of divorce are reversible when, in fact, it simply costs more to raise children in two houses than in one. No governmental entity can realistically make up this difference for the approximately one million children annually who experience their parents' divorce.

Having noted that family forms alternative to marriage are associated with diminished educational opportunities, it should next be observed that lesser education is correlated directly with lesser income. With the exception of professional degrees (which yield income even greater than the higher, doctoral degree), "each successively higher education level is associated with an increase in earnings" according to the U.S. Census Bureau.[49]

There is also a relationship between all of the above phenomena—nontraditional family forms, diminished educational attainment, lower income—and abortion. Poverty, lower levels of education, and nontraditional family forms all are associated with higher abortion rates. As to family form, single women, or women who are single and cohabiting, are far more likely than married women to have one of the approximately 1.29 million abortions performed annually in the United States.[50] Single women have 83% of all abortions and married women 17%. Single women who are cohabiting have nearly twice the abortion rate of women who are not cohabiting.[51] And while the question of whether girls and women reared in nontraditional families have a higher abortion rate than those reared in traditional families has not yet been fully studied, it is known that women coming from step-parenting and cohabiting households have more problems than women coming from married households—specifically with regard to sexual or physical abuse—and are at greater risk for unintended pregnancy and thus for abortion.[52]

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48. *Id.* at 138–39.

49. Jennifer Cheeseman Day & Eric Newburger, *The Big Payoff: Educational Attainment and Synthetic Estimates of Work-Life Earnings* 2 (U.S. Census Bureau 2002).

50. Physicians for Reproductive Choice and Health & Guttmacher Institute, *An Overview of Abortion in the United States* 6 (2005) (available at http://www.agi-usa.org/presentations/abort_slides.pdf).

51. Rachel K. Jones et al., *Patterns in the Socioeconomic Characteristics of Women Obtaining Abortions in 2000-2001*, 34 Persps. Sexual & Reprod. Health 226, 228 (2002) (table 1: percentage distribution of women obtaining abortions in 2000 and 1994, and of all U.S. women aged 15-44 in 2000; estimated abortion rates for 2000 and 1994, and percentage change in the rate between the two years; pregnancy rate and proportion of pregnancies ending in abortion in 2000—all by selected characteristics at outcome).

52. *See* Patricia M. Dietz et al., *Unintended Pregnancy among Adult Women Exposed to Abuse or Household Dysfunction During Their Childhood*, 282 J. Am. Med. Assn. 1359 (1999).

Lower income is also correlated with higher abortion rates. Women living at less than two times the poverty level—while they constitute only 30% of all women—have over 57% of all abortions. Only 25% of all abortions are had by women earning more than three times the poverty level.[53]

Women with less education are also more likely to choose abortion. The 74% of American women of child-bearing age who have not graduated from college have about 84% of all abortions. The 25% of women who have graduated college have only 16.4% of all abortions.[54]

It is also worthy of note that the face of poverty, abortion, lesser education, and nontraditional family forms in the United States is disproportionately African American and Hispanic American. For example, while Hispanics make up about 13% of the U.S. population, they make up 20.1% of the annual abortion rate. African Americans, who also constitute about 13% of the population, make up 31.7% of the annual abortion rate.[55] This, in turn, is correlated with the lesser educational attainment and income status of these groups, as African Americans constitute 24% of the poverty rate and Hispanics 22%. These groups also complete high-school and college educations less often than non-Hispanic whites,[56] divorce more often,[57] head single-parent families more often,[58] and cohabit more often.[59]

Poverty and lesser education—already correlated with racial and ethnic factors—are also correlated with nontraditional family forms. Unmarried mother households, in particular, suffer "chronic" or long-term poverty at high rates. In a recent survey of twenty-four hundred poor mothers, only 14% were married and living with their husbands, while 69% were single and unattached, 6% cohabiting, and 12% separated from their husbands.[60]

Divorce among the poorer and less educated is also more likely.[61] Although overall divorce rates have declined only slightly since the 1980s, this fact alone masks the reality that college-educated women became "far more stable than they had been in the 1970s, while marriages among those

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53. Jones et al., *supra* n. 51, at 228.

54. *Id.*

55. *Id.*

56. Child Trends Databank, *Educational Attainment* 1-2, http://www.childtrendsdatabank.org/pdf/6_PDF.pdf (accessed Sept. 22, 2005).

57. Administration for Children & Families, *Marriage, Divorce, Childbirth, and Living Arrangements among African American or Black Populations* tbl 2, http://www.acf.hhs.gov/healthymarriage/about/aami_marriage_statistics.htm (last updated Nov. 12, 2004) (including comparisons between African American, Hispanic and White populations in the United States).

58. *Id.*

59. Amy L. Godecker, Elizabeth Thomson & Larry L. Bumpass, *Union Status, Marital History and Female Contraceptive Sterilization in the United States*, 33 Fam. Plan. Perspectives 35, 38 (2001).

60. Sharon Vandievere, Kristin Anderson Moore & Martha Zaslow, *Snapshots of America's Families II: Children's Family Environment*, http://www.urban.org/uploadedPDF/900846_1999Snapshots.pdf (1999) (reporting on National Survey of America's Families 1999 findings).

61. Jeynes, *supra* n. 38, at 10.

at the bottom of the educational distribution actually became less stable."[62] Cohabitation is most frequent among those who have not graduated high school and those whose families relied on welfare while they were growing up.[63] And the poor and less educated are also most likely to form single-parent households. In sum, ample empirical evidence demonstrates that the issues taken up by different interest groups are closely and practically interrelated, such that addressing any one of them could have important consequences for the others.

In addition to the problematic implications of the linkage between education, income, family form, and abortion, there are two additional reasons to believe marriage and family issues should be considered important.

The first reason is the ongoing campaign to divorce marriage from childbearing in the public mind. Proponents of same-sex marriage are making headway in the United States by asserting that there is no inherent or necessary relationship between children and marriage.[64] This argument is made to overcome states' claims that marriage is restricted to opposite-sex couples precisely because of the state's interests in children's well-being.[65] Whatever one's opinion is regarding same-sex marriage, its proponents' insistence on divorcing marriage from children is troubling considering that children's well-being appears to rest upon the successful long-term commitment of their married, biological parents.

The second reason concerns the high incidence of marital difficulties in the United States—each year there are approximately 47 divorces for every 100 marriages—representing an alarming change in underlying beliefs about the very nature of marriage. This change has been well-described by Andrew Cherlin, one of the country's most respected marriage and family sociologists. Cherlin has labeled current trends regarding marriage as the "deinstitutionalization" of marriage, i.e., the "weakening of the social norms that define people's behavior in a social institution such as marriage."[66] He writes that marriage was formerly an institution that responded to the expectations of external sources such as family, church, and the larger society, and that the fulfillment of these expectations generated spousal satisfaction.[67] Marriage has become, however, an institution in which persons seek individual fulfillment and emotional expression by

62. Kathryn Edin, Maria J. Kefalas & Joanna M. Reed, *A Peek Inside the Black Box: What Marriage Means for Poor Unmarried Parents*, 66 J. Marriage & Fam. 1007, 1013 (2004).

63. Larry Bumpass & James A. Sweet, *National Estimates of Cohabitation*, 26 Demography 615, 622–24 (1989).

64. *See e.g.* William Eskridge, *The Case for Same Sex Marriage* (Free Press 1996); Andrew Sullivan, *Virtually Normal* (Knopf 1995).

65. *See e.g. Goodridge v. Dept. of Public Health*, 798 N.E.2d 941 (Mass. 2003); *Baker v. State*, 744 A.2d 864 (Vt. 1999).

66. Andrew J. Cherlin, *The Deinstitutionalization of American Marriage*, 66 J. Marriage & Fam. 848, 848 (2004).

67. *Id.* at 852.

means of a relationship. There is, in other words, an increasing tendency to see marriage as a purely private accomplishment of a financial and emotional nature,[68] a milestone of "self-development"[69] to be shown off with a properly lavish wedding.[70]

Evidence of this thinking among the poor has been chronicled in a recent and important study of poor mothers.[71] Researchers found that for this group, marriage is a sign that they have "arrived economically" and have proved their ability to demand an emotional commitment from one man. The authors learned, for example, that for this group, a certain level of financial security—a "modest row home, car note, furniture, money in the bank, and money to host a 'decent' if not big wedding"—is a prerequisite to marriage.[72] This study is additional evidence that for an economically and socially fragile group, marriage has become nearly completely deinstitutionalized.

It is worth noting that the deinstitutionalization of marriage has been aided by the law and other important social institutions. Courts, for example, have increasingly applied the rights and obligations long associated with marriage to other kinds of relationships, such as civil unions, heterosexual and homosexual domestic partnerships, and cohabitation.[73] These pairings, by their innate structure or functioning, tend explicitly to separate sex and procreation from marriage. Similarly, adoption agencies, either with the sanction or through the inattention of courts and legislatures, have increasingly allowed adoption by families other than married couples.[74] Legislatures have chosen not to regulate new reproductive technologies even when they are used to create children unrelated to one or both persons who will rear them, or for single parent families.[75] Legislatures' adoption

68. *Id.* at 853-54.

69. *Id.* at 856.

70. *Id.* at 857 ("People marry now less for the social benefits that marriage provides than for the personal achievement it represents.").

71. Edin et al., *supra* n. 62, at 1007.

72. *Id.* at 1012.

73. *See generally e.g.* Grace Ganz Blumberg, *The Regularization of Nonmarital Cohabitation: Rights and Responsibilities in the American Welfare State*, 76 Notre Dame L. Rev. 1265 (2001); Milton C. Regan, Jr., *Calibrated Commitment: The Legal Treatment of Marriage and Cohabitation*, 76 Notre Dame L. Rev. 1435 (2001).

74. *See e.g.* David M. Brodzinsky et al., *Adoption by Lesbians and Gays: A National Survey of Adoption Agency Policies, Practices, and Attitudes* 10, http://www.adoptioninstitute.org/whowe/Lesbian%20and%20Gay%20Adoption%20Report_final.doc (Oct. 29, 2003) ("Acceptance of adoption applications also varied as a function of the type of adoption program run by the agency. Agencies focusing on special needs adoptions . . . were more likely to accept applications from homosexuals . . . than agencies focusing on international adoptions . . . domestic infant adoption . . . or ones with highly varied programs."); CBS News, *Single Parent Adoptions Increasing*, http://www.cbsnews.com/stories/2004/12/17/earlyshow/main661622.shtml (Dec. 17, 2004).

75. The President's Council on Bioethics, *Reproduction and Responsibility: The Regulation of New Biotechnologies* 46-79 (2004) (available at http://www.bioethics.gov/reports/reproductionandresponsibility/index.html).

of no-fault divorce laws—uncoupled with any provisions to assist marriages—have also contributed to the deinstitutionalization of marriage by appearing to deny any state interest in enduring marriages.

All of this indicates that we are past the point where we can claim as a society to be still waiting for the outcome of our experiment with family forms. One can remember a time, perhaps, after the rise in out-of-wedlock births, when it was thought that an extended family would compensate for the absence of a second parent.[76] This did not occur.[77] One can also remember a time when it was proposed that cohabitation,[78] or freeing up unhappy spouses for remarriage,[79] could create or restore the stability for any children involved. Yet we now know that remarriage has downward effects on children's well-being, and that cohabitation produces worse results for children than living with a never-married single parent.[80] Furthermore, cohabitation in a sexual relationship with anyone other than the future spouse is robustly correlated with higher, not lower, divorce rates,[81] resulting in more children, not fewer, experiencing their parents' divorce.

All of this indicates that there is a sort of "missing link" between a traditional set of issues classified as "dignity of life" issues by the Catholic Church—poverty reduction and educational attainment—and the "respect life" issue of abortion. This link is the well-being of marriage and children. Recognizing this fact is not at all to suggest that the Church ought to cease its efforts on behalf of all who lack the necessities of life, regardless of their family form. It is not to suggest that the Church's ongoing pastoral efforts on marriage[82] are not important, and shouldn't proceed and improve apace, especially in light of increasing knowledge about what helps marriages work.

It is to suggest, rather, that more effort needs to be placed in the Church's legislative agenda upon improving the conditions for the flourishing of marriage and stable families. There are signs that now is an auspicious time for this work, and that in addition to it being empirically

76. More recent research indicates, in fact, that a considerable degree of child care by a relative other than the mother or father "does not positively impact academic achievement and psychological adjustment of mothers and fathers." Jeynes, *supra* n. 38, at 35 (citing Sarah McLanahan & Gary Sandefur, *Growing Up With a Single Parent: What Helps, What Hurts* (Harv. U. Press 1994)).

77. *Id.*

78. *E.g. Marvin v. Marvin*, 18 Cal. 3d 660, 683 (1976) ("The trial period, preliminary to marriage, serves as some assurance that the marriage will not subsequently end in dissolution to the harm of both parties.").

79. *See generally* Max Rheinstein, *Marriage, Stability, Divorce and the Law* (U. of Chi. Press 1972).

80. Jeynes, *supra* n. 38, at 136–37.

81. Jay Teachman, *Premarital Sex, Premarital Cohabitation, and the Risk of Subsequent Marital Dissolution Among Women*, 65 J. Marriage & Fam. 444, 445 (2003).

82. *See e.g.* U.S. Conf. of Catholic Bishops, *Family Ministry: A Pastoral Plan and Reaffirmation*, http://www.usccb.org/laity/marriage/index.shtml (last accessed April 18, 2005).

supportable, a legislative shift toward marriage and family is perhaps more politically viable than before. Among these signs are, first, the surprising appearance and strength of the constituency to defend traditional marriage in the 2004 national elections; and second, the visible participation of new and important allies, both in the defense of traditional marriage, and in state, federal, and private efforts over the last decade to renew the institution of marriage, especially among the poor. I will consider each of these in detail below.

B. Politically Speaking

The 2004 national election results appeared to show the salience of "moral issues" in voters' minds.[83] Candidates supporting a "respect life" platform had on average a 4% advantage.[84] These election results caused what the media portrayed as soul-searching in a Democratic Party publicly allied with proponents of abortion rights and same-sex marriage.[85] Several critical questions remain, however, regarding the actual effect of this election on political behaviors.

The first question is the extent to which the Democrats are really willing to support pro-life legislation. The Democratic minority leader in the U.S. House of Representatives has explicitly opined that no concrete positions of the party will change.[86] Yet there are indications at the state level that the Democratic Party is ready to support pro-life candidates for federal office,[87] a shift that could alter Congressional vote totals in favor of the pro-life outcome.

The second question concerns what the public meant when they said that "moral issues" led their voting. There are indications that Republican Party voters believe "moral issues" include issues other than right to life, such as strategies for alleviating poverty. Senator Rick Santorum, one of the pro-life Republicans who will face a pro-life Democratic opponent in the 2006 elections, has recently joined with four other Senators to announce an "anti-poverty" agenda.[88]

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83. David Usborne, *Farewell 2004: US Liberalism: Real Men Don't Windsurf*, Independent on Sun. (U.K.) 12 (Dec. 26, 2004) (available at 2004 WLNR 14713450) ("The exit polls after 2 November said it all. . . . What really surprised the pundits was what the voters said about their choices. Morality, it turned out, was the issue that won the election for Bush.").

84. Editorial, *I Meant What I Said*, Natl. Right to Life News (Nov. 1, 2004) (available at 2004 WLNR 14593366) (Among the 8% of voters who stated that abortion was their most important issue in 2004, 75% voted pro-life (Bush) and 25% vote in favor of abortion rights (Kerry).).

85. Carla Marinucci, *Dems Give Abortion Foes Space: Party Seeks Broader Appeal on the Issue*, S.F. Chron. A1 (Feb. 7, 2005) (available at 2005 WLNR 1688896).

86. John Cochran, *Finding Faith in the Center*, Cong. Q. Wkly. 562 (Mar. 7, 2005) (available at 2005 WLNR 6930982).

87. Nicole Duran, *Democrats Vow Offensive on Blue State Republicans*, Roll Call (Mar. 21, 2005) (available at 2005 WLNR 4355518) (Pro-life Democrats receiving party support to unseat two pro-life Republicans in the U.S. Senate).

88. Peter Savodnik, *GOP Senators Prepare Poverty Agenda*, The Hill 12 (Mar. 2, 2005).

Voters' opinions on one particular moral issue, however, stand out: preserving marriage as an institution intrinsically connected to healthy child-rearing by virtue of its "opposite-sex" requirement. Both presidential candidates in the 2004 election opposed same-sex marriage, although Democratic candidate John Kerry refused to go so far as to support a federal constitutional amendment ensuring only opposite-sex marriage in the United States. The clearest indication of public opinion, however, was the passage by eleven states (100 percent of states considering the question) of ballot measures intended to prevent states from recognizing gay marriages, and in some cases, to prevent states from providing marital-type benefits to any relationships other than recognized opposite-sex marriages.[89] Prior to the elections, there was little indication that supporters of traditional marriage would succeed as completely as they did, passing 100 percent of proposed measures to defend marriage even in states where same-sex marriage advocates had poured out-of-state money.[90] Traditional marriage, it seemed, had its constituency, even without time for a thorough national conversation, or for the development of a strong grass-roots movement. According to polls, about 65% of American voters oppose gay marriage,[91] and this constituency is far more likely to vote their convictions on election day than supporters of same-sex marriage.[92] Opponents of same-sex marriage are somewhat bipartisan: an ABC News poll found that 45% of Democrats oppose same-sex marriage while 47% support it; 73% of Republicans oppose it, while only 23% support it.[93]

Many African Americans—including many pastors in a position to influence members of their church[94]—are among the constituency for strengthening marriage and preventing the severing of marriage and childbearing. Hispanics also actively support limiting marriage to opposite-

89. Associated Press, *Voters Pass All 11 Bans on Gay Marriage*, http://www.msnbc.msn.com/id/6383353/ (Nov. 3, 2004).

90. *See* American Political Network, *White House 2004 – the Purple States Oregon (7EVS): Kerry Hits 50*, The Hotline (Sept. 28, 2004) (The National Gay and Lesbian Task Force poured money into Oregon to fight a ballot ban on gay marriage after concluding Oregon was one of its "best shots." They donated over $500,000, helping opponents of the ban collect nearly two times the contributions of its supporters.).

91. The Pew Research Center, *Gay Marriage a Voting Issue, But Mostly for Opponents: Constitutional Amendment Rates as Low Priority*, http://people-press.org/reports/display.php3?ReportID=204 (Feb. 27, 2004).

92. *Id.*

93. Dalia Sussman, *Gay Marriage Opposition Poll: Most Americans Are against Same-Sex Marriages, But Don't Want Constitutional Amendment*, http://abcnews.go.com/sections/us/Relationships/gaymarriage_poll_030922.html (Sept. 22, 2003).

94. *See e.g.* Gillian Flaccus, *Conservative Black Ministers Join to Fight Gay Marriages: New Group Sides with Republicans on Homosexuality and Abortion*, San Jose Mercury News 14A (Feb. 2, 2005) (available at 2005 WLNR 1499524) (reporting the gathering of over one hundred black clergymen to unveil a "Black Contract with America on Moral Values," which included opposition to same-sex marriage).

sex couples.[95] According to several polls, African Americans oppose same-sex marriage by significant margins, with a Gallup Poll showing 64% opposition.[96] A Field Poll of California Hispanics showed 63% opposing same-sex marriage.[97]

Opposition by these groups to gay marriage is significant given the large Democratic Party membership of African Americans and Hispanic Americans[98] and their visibility in the public campaigns supporting traditional marriage. From the formation of the Alliance for Marriage—whose slogan is "More Children Raised in a Home with a Mother and a Father"—African American and Hispanic leaders were present.[99] A leading member of the Board of Advisors of the Alliance for Marriage is Rev. Walter Fauntroy, whose civil rights credentials extend to having coordinated D.C. for Martin Luther King's March on Washington.[100] African Americans are also active by supporting stable marriage at the grass-roots level, gathering to sign pledges or join coalitions,[101] or to participate in celebrations of long marriages. On the occasion of a recent such celebration by the National Christian Methodist Episcopal Church, Bishop Nathaniel Linsey expressed his hope that demonstrating the importance of long-lasting marriages to young couples will help "reinforce family unity within the African Ameri-

95. *See* Alexandra Alter, *Kerry's Faith May Have Cost Him Some Catholic Votes*, Miami Herald 1E (Nov. 13, 2004) (available at 2004 WLNR 9709585); Jose Manuel Calvo, *US Hispanics Make Major Inroads into the Bush Administration*, Diario El Pais (Eng.) (Nov. 17, 2004) (available at 2004 WLNR 9855320); Michael Paulson, *Official Chides Christian Right: Moral Majority Called Aberration*, Boston Globe B1 (Feb. 5, 2005) (available at 2005 WLNR 1961799).

96. Flaccus, *supra* n. 94.

97. Mark DiCamillo & Mervin Field, *Release #2109: California Voters Disapprove of Same-Sex Marriages, But Do Not Support Constitution Amendment to Bar Them. Majority Opposes San Francisco Granting Same-Sex Marriage Licenses* 3 tbl. 2, http://field.com/fieldpollonline/subscribers/RLS2109.pdf (Field Research Group Feb. 26, 2004) (California opinion among registered voters about allowing same-sex marriages where regular marriage laws apply by subgroup).

98. Wes Allison, *Black Conservatives Gather Momentum*, St. Petersburg Times 1A (Feb. 28, 2005) (available at 2005 WLNR 3040786) ("Polls show African-Americans still hold a dogged allegiance to the Democratic Party. . . .").

99. The website for the Alliance for Marriage lists among its board of advisors many African American leaders, including Dr. Walter Fauntroy of the National Black Leadership Roundtable, Bishop George McKinney of the Church of God in Christ, Vernon Shannon of the AME Zion Church, and Dr. Patricia de Veaux of the African Methodist Episcopal Church; Hispanic leaders on the board include Samuel Rodriguez of the National Hispanic Christian Leadership Conference and Sonia Valdes of the Christian Latin Business Association. Alliance for Marriage, *Board of Advisors*, http://www.allianceformarriage.org/site/PageServer?pagename=bac_board (accessed Sept. 9, 2005).

100. Alliance for Marriage, Press Release, *Bush Victory Reflects Public Support for Federal Marriage Amendment across Party Lines*, http://www.allianceformarriage.org/site/News2?page=NewsARticle&id=5542 (accessed Sept. 10, 2005).

101. Chip Johnson, *Flash Point for Black Churches: Gay Marriage Issue May Benefit GOP*, S.F. Chron. B1 (Sept. 27, 2004) (available at 2004 WLNR 7620821) ("But for many black clergy in the Bay Area, gay marriage is a flash point for controversy, and even for ministers who are undecided about the election, Democratic support for gay marriage causes genuine concerns.").

can community."[102] He also explicitly correlated the "destruction of the black family unit" with many of the problems seen in African American communities. African Americans and Hispanics are also actively participating in the recent spate of federal, state, and private initiatives to strengthen marriage, especially among the poor, including activities funded by the U.S. Department of Health and Human Services' "Healthy Marriage Initiatives."[103]

The visible participation of Hispanics and African Americans is an important sign of the inter-party, and inter-group potential of the marriage and family issues. This participation is, at the same time, additional practical evidence of the desire of America's minorities to promote the family as a means to avoid poverty and related social disorders.

C. *Legislatively Speaking*

There are also signs in some recent legislative initiatives of the potential for greater success for a consistent ethic that better integrates marriage and family issues.

The first and very significant sign of the power of the marriage and family issue was the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).[104] Passed by a strong bipartisan majority,[105] its first and second congressional findings recite that "[m]arriage is the foundation of a successful society,"[106] and that marriage is the "essential institution . . . which promotes the interests of children."[107] Currently, amendments proposed to PRWORA which are pending at the time of this draft, would authorize a "Fatherhood Program," part of which would be directed to helping men prepare for and maintain healthy marriages and married fatherhood.[108] Funds for "demonstration service projects and activities designed to test the effectiveness of various approaches" for promoting marriage and responsible fatherhood would also be

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102. Michael J. Rochon, *Showing 'Em How Marriage Is Done*, Indianapolis Star News 1D (Apr. 6, 2001) (available at http://www.allianceformarriage.org/site/PageServc_?Pagename_010406_INSTARnews).

103. *See* Johnson, *supra* n. 101 ("The church program, funded under the federal initiative, sponsored a 'healthy marriages' conference in Oakland last week where 150 people from 15 states—including quite a few reverends—spent two days in a marriage-education certification program.").

104. Pub. L. No. 104-193, 110 Stat. 2105 (1996) (codified as amended in various sections of 42 U.S.C.).

105. *See* Jill Stewart, *State Throws Money at Welfare Lobby*, Daily News (L.A., Cal.) V1 (Mar. 6, 2005) (available at 2005 WLNR 3570394) ("President Bill Clinton's 1996 bipartisan welfare reforms are moving millions of people into jobs in 20 key states."); Wash. Times Editorial Bd., *Welfare Spending: Up 7 Percent a Year*, Wash. Times A16 (Dec. 4, 1996) (available at 1996 WLNR 300896) (PRWORA passed 328-101 in the House and 78-21 in the Senate).

106. Pub. L. No. 104-193 § 101(1), 110 Stat. at 2110.

107. *Id.* at § 101(2), 110 Stat. at 2110.

108. *Personal Responsibility, Work, and Family Promotion Act of 2005*, H.R. 240, 109th Cong. § 119 (Jan. 4, 2005).

made available.[109] These efforts continue to garner bipartisan support[110] and predominantly favorable reactions, save from those who continue to be convinced that the well-being of the poor is strictly about money, or that marriage is inherently problematic due to the possibility of domestic violence.[111] To disagree with such groups is not to condone any strategy that fails to assist the poor with the basic services—predominantly child care, education, and job training—needed to help families in economic crisis transition to stability. It is simply to point out that it is no longer possible to overlook the demonstrated importance of assisting marriage and family directly as a part of any effective, integrated strategy to combat poverty.

Closely related to the efforts to save marriages, and thus protect children's well-being, are the legislative efforts to prevent out-of-wedlock sexual involvement and pregnancy. Expert literature nearly speaks with one voice to the fact that there is a close relationship between premarital sex, cohabitation, and divorce.[112] Delaying or preventing teen sexual activity has become a full-blown national effort. We have come to a point where, while there remain divisions about how *best* to reduce teen sexual activity and pregnancy, there is agreement it must be reduced. This is not nothing. Today, only the most extreme sex activists, such as Planned Parenthood (authors of the "I Had an Abortion" t-shirts, "Celebrate Choice" Christmas cards,[113] and "[t]he Abortion Pill 'Grabbit' Pen Holder"[114]), continue to treat teen sexual activity as a combination of self-realization, entertainment,

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109. *Id.*

110. *See* Cheryl Wetzstein, *Senate Committee OKs Welfare Reform Measure: Bipartisan Bill Doles Out $6 Billion for Child Care*, Wash. Times A10 (Mar. 10, 2005) (available at 2005 WLNR 3718322) ("[T]he bill represented substantial compromises by Republican and Democratic members, Finance Chairman Charles E. Grassley, Iowa Republican, said yesterday at a session to review the bill.").

111. For example, Lisalyn R. Jacobs, V.P. Govt. Rel., Leg. Momentum (formerly NOW Leg. Defense and Education Fund) said,

> Emphasis on marriage and family formation sidesteps the underlying causes of poverty . . . such as lack of job training and education, ongoing sex and race discrimination, violence and lack of childcare . . . . Further, government involvement in highly personal decisions such as marriage is a departure from our most basic principles; . . . critically important is the fact that because of the prevalence of violence among women forced to turn to public assistance, promotion of marriage can raise particular and severe dangers.

H.R. Subcomm. on Human Resources of the Ways & Means Comm., *Welfare Reform Reauthorization Proposals*, 109th Cong. (Feb. 10, 2005) (testimony of Lisalyn R. Jacobs) (available at http://waysandmeans.house.gov/hearings.asp?formmode=view&id=2496).

112. *See e.g.* Jay Teachman, *Premarital Sex, Premarital Cohabitation, and the Risk of Subsequent Marital Dissolution among Women*, 65 J. Marriage & Fam. 444, 445, 450, 453 (2003) (Premarital sex and cohabitation are associated with approximately a 33% increased likelihood of divorce as compared with marriages not preceded by cohabitation and up to a 166% increased likelihood of divorce for marriages in which the wife both had premarital sex with a man other than her husband and cohabited with him. "[V]irtually all studies of the relationship between premarital cohabitation and divorce have found a positive link.").

113. *See* Fr. Johannes L. Jacobse, *Planned Parenthood's Christmas Card: "Choice on Earth" or "Slaughter of the Innocents"?*, http://www.orthodoxytoday.org/articles4/JacobsePPCard.shtml (posted Dec. 18, 2004); Scott Williams, *'I Had an Abortion' T-Shirt Stirs Debate*, http://www.jsonline.com/news/metro/aug04/248331.asp (Aug. 2, 2004).

and an opportunity to co-opt teenagers and others to their positions on abortion and other political issues.[115] Only outlying voices continue seriously to argue that teen sexual activity can be morally and practically neutral.[116] In sum, today's debate about how best to reduce out-of-wedlock sexual involvement and pregnancy represents real progress, even if we are a long way from agreement on the very best methods to use.

D. Philosophically Speaking

One final but foundational indication that a legislative agenda for marriage and family stability could give the consistent ethic greater coherence and practical success is the fact that this agenda understands the two-fold nature of freedom: freedom as requiring both truth telling and solidarity with the vulnerable. As to truth telling, the marriage and family agenda regularly relies on the findings of experienced family researchers about what helps and what hurts couples and children. It does not base its conclusions upon tradition alone, or the preferences of the privileged, but upon increasingly available information about the behavioral correlations of successful family life.[117]

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114. Planned Parenthood, *Planned Parenthood Store*, http://store.ppfastore.org/miabpigpenho.html (accessed Sept. 5, 2005) (Planned Parenthood's online store offers an abortion pill necklace pen holder advertised as follows: "Mifepristone, The Abortion Pill 'Grabbit' Pen Holders. Both fun and functional—you'll never be without a pen when you have the Mifepristone [RU-486] Grabbit pen holder around your neck. And they convey an important message! The copy on the pen holder reads: It's Safe. It's Private. And it's finally here.").

115. *See e.g.* Planned Parenthood, *Sexuality and Relationship Info You Can Trust From Planned Parenthood*, http://www.teenwire.com (accessed Sept. 5, 2005) (website especially for teenagers on which Planned Parenthood offers advice about having sex and advice on advocating in favor of legal abortion).

116. *See e.g.* Mac Edwards, *Sexual Pleasure Has Central Place in the Human Potential*, http://www.siecus.org/pubs/srpt/srpt0038.html (accessed Sept. 6, 2005) ("If sexual expertise is expected of adults, children must get a chance to understand the rudiments."); Janine Sharell, *Elders Finds Herself a Campaign Target*, http://www.cnn.com/ALLPOLITICS/1996/news/9610/09/elders/index.shtml (Apr. 11, 2005) ("Elders has no regrets about saying masturbation should be part of sex education. . . .").

117. *See* Oklahoma Marriage Initiative, *Oklahoma Marriage Initiative*, http://www.okmarriage.org (accessed Sept. 7, 2005) (The Oklahoma Marriage Initiative, one of the most successful efforts among the states, supports a variety of programs to stabilize marriage, including marital communications, conflict skills training, and marriage mentoring.); *Personal Responsibility, Work, and Family Promotion Act of 2005*, H.R. 240, 109th Cong. § 119(b) (Jan. 4, 2005) (The changes proposed to the PRWORA in the current (109th) Congress include authorization for funding projects intended to demonstrate empirical success with helping prepare for and sustain successful marriages.); *see also* The Coalition for Marriage, Family & Couples Education, *Smart Marriages, Directory*, http://www.smartmarriages.com/directory_browse.html (accessed Sept. 7, 2005) (lists a great variety of programs responding to research concerning what causes marriages to fail); Prevention and Relationship Enhancement Program, *State of the Art Tools for an Extraordinary Marriage, Overview of PREP*, http://www.prepinc.com/main/docs/overview_prep.pdf (accessed Sept. 7, 2005) (An increasingly widely used program, PREP continually seeks evidence of what causes marriages to fail and what programs might address these specific issues.).

As to solidarity, marriage and family activists also regularly study and engage the particularly detrimental effects of failed families upon the poor and upon immigrants and minority Americans. They propose that a genuine desire to assist such groups must include addressing the causes of out-of-wedlock births and marital failures, even if they do not agree on the degree to which the federal government should characterize or promote marriage as a sort of "cure" for poverty.[118]

Both Democrats and Republicans, liberals and conservatives, can see their ideals reflected in such a synthesis, and there is perhaps enough there for advocates of both perspectives on freedom to begin to see the importance of the other's proposed "recipe" for freedom.

Having set out the case for, and the promise of, integrating marriage and family issues into the consistent ethic, it must be noted that there are both opportunities and impediments when it comes to the Catholic Church undertaking such a plan. It is to these we now turn.

IV. Opportunities and Obstacles: The Church's Role in Realizing the Promise of the Consistent Ethic

There are a number of obstacles to the Church's communicating how important marriage and family issues are to the success of the consistent ethic. These obstacles, and how the Church might overcome them, are considered immediately below.

First, there is a tendency within the Catholic Church in the United States to use a particular, formulaic recitation of the contents of the consistent ethic. This "formula" includes listing a great number of issues involving human life and dignity at the same time, often without describing how they work together or mutually support one another. While a reader might come away from such a recitation understanding quite basically that all of these issues concern respect for human life, they could easily fail to understand the empirical relationships between issues.[119] Sometimes, these link-

118. *See e.g.* Ronald Brownstein, *Washington Outlook: Promise of Reducing Poverty May Be Found Inside Marriage Vows*, L.A. Times A5 (Oct. 6, 1997) (available at LEXIS, Legal library, ALLNWS file, or http://www.smartmarriages.com/lATimes.html); Robert Rector, *Welfare Reform and The Healthy Marriage Initiative*, http://www.heritage.org/Research/Welfare/tst021005a.cfm (Feb. 10, 2005) ("Nearly 80 percent of long term child poverty occurs in broken or never-married families. . . . The beneficial effects of marriage on individuals and society are beyond reasonable dispute, and there is a broad and growing consensus that government policy should promote rather than discourage healthy marriage.").

119. *See generally* U.S. Conf. of Catholic Bishops, *Cardinal Keeler Urges Senate to Reject Pro-Abortion Test for Judicial Nominees*, http://www.usccb.org/comm/archives/2005/05-004.shtml (Jan. 6, 2005) (William Cardinal Keeler wrote a letter to each Senator concerning some Senators' intention to filibuster all pro-life judicial nominees. "As you know, the [USCCB] is active in the courts on many matters, especially in cases on abortion, the death penalty, civil rights, discrimination and the role of religion in society. . . . This ethic [the commitment to the right to life] has profound consequences not only for abortion, but for many other areas of life, including the death penalty, the application of scientific research to human subjects, the right to

ages surface,[120] but usually momentarily and unaccompanied by an explanation of how the linkages operate.

The most impassioned statements about the link between family life, respect for life, and human dignity tended to come from Pope John Paul II, who can lay claim to scholarly and pastoral expertise on the family since his days as a parish priest.[121] In an address to the diplomatic corps at the beginning of 2005, Pope John Paul II spoke of families as the "fundamental and irreplaceable condition[ ] for the happiness of the individual spouses, for the raising of children, and for the well-being of society, and indeed for the material prosperity of the nation . . . ."[122] In his 1981 apostolic exhortation *Familiaris Consortio* (*On the Role of the Christian Family in the Modern World*), he wrote, "Whoever destroys this fundamental fabric of human coexistence, by not respecting its identity and by upsetting its tasks, causes a profound wound in society and provokes harm that is often irreparable."[123] He has noted how a strong family increases the possibility that its members will respect and protect human life.[124] Cardinal Ratzinger, prefect of the Congregation for the Doctrine of the Faith during the papacy of John Paul II, and now Pope Benedict XVI, has assigned the family the role as the "moral guarantor of continuity for the future," critical to social well-being,

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adequate health care, and the role of the state in promoting the common good."); Theodore Cardinal McCarrick, *Interim Reflections Task Force on Catholic Bishops and Catholic Politicians*, http://www.usccb.org/bishops/intreflections.shtml (June 15, 2004) [hereinafter *Catholic Conference Interim Reflections*] ("We believe all life is precious and deserves protection, especially unborn human life. We believe the Gospel teaches that the poor deserve special priority. We share our Holy Father's passion for peace and justice."); U.S. Conf. of Catholic Bishops, *Catholics in Political Life*, http://www.usccb.org/bishops/catholicsinpoliticallife.shtml (June 2004) ("We have the duty to teach about human life and dignity, marriage and family, war and peace, the needs of the poor and the demands of justice."); U.S. Conf. of Catholic Bishops, *Faithful Citizenship: A Catholic Call to Political Responsibility* 2, 11-13, http://www.usccb.org/faithfulcitizenship/faithfulcitizenship03.pdf (2003) (The U.S. bishops listed among their concerns the unborn, the hungry, those who lack health care, those lacking freedom of faith, and families in Latin America, Africa and Asia, including all of their basic yet unmet needs. When the document discusses the family, it does not tie it to the choice for life or to the likelihood of economic well-being. Education is not examined in its economic perspective save to say it helps young people "lead productive lives," nor are impediments to education tied to marriage or family life.).

120. *See* McCarrick, *supra* n. 119 (Cardinal McCarrick, after mentioning the Church's attention to the abortion issue, continues: "[b]ut . . . those things which make life truly human—faith and family, education and work, housing and health care—demand our attention and action as well." Marriage and family are mentioned together as subjects the Church needs to better address for helping to "protect human life from the moment of conception to natural death.").

121. George Weigel, *Witness to Hope: The Biography of Pope John Paul II* ch. 3 (Cliff St. Books 1999).

122. Pope John Paul II, *State of the World, According to John Paul II: Address to the Diplomatic Corps Accredited to the Holy See* ¶ 5, http://zenit.org/english/; *select* Documents (Jan. 10, 2005).

123. *Id.*

124. Pope John Paul II, *Familiaris Consortio* No. 32, ¶ 46 (Nov. 22, 1981) (available at http://www.vatican.va/holy_father/john_paul_ii/apost_exhortations/documents/hf_jp-ii_exh_19811122_familiaris-consortio_en.html).

and even the "order of law."[125] It is also worth noting that these thoughts were presaged by *Gaudium et Spes*, (Vatican II's Constitution on the Church in the Modern World), which was influenced by the thought of the archbishop of Krakow, Karol Wojytla.[126] *Gaudium et Spes* mentions the family first in its list of "[s]ome [m]ore [u]rgent [p]roblems."[127] It attained primacy of place due to its vital link with the "well being of the individual person and of both human and Christian society."[128]

Building on the intellectual traditions of Pope John Paul II, the Church in the United States, with all of its varied pastoral, doctrinal, and social-services expertise in the family, could better explore and explain the ample evidence available of the close relationship between the subjects it accords such prominence—abortion, poverty, marriage and the family—and the success of the consistent ethic.

Secondly, there may be a concern in the U.S. Catholic Church that legislative emphasis on stable marriages and families will be interpreted as hard-heartedness toward all nontraditional families. But the Church has often had to distinguish its ultimate hopes and goals from its continued willingness to assist those who deviate from them. It has never faltered in this assistance.

In the area of abortion, for example, the Church constantly struggles to end legal abortion while assisting post-abortion women.[129] It also repeatedly assures homosexuals of its respect for their persons,[130] and provides a great deal of assistance to victims of AIDS,[131] while working to prevent same-sex marriage. It is fully capable of seeking to encourage stable marriages and the prevention of divorce while continuing its pastoral and charitable care involving nontraditional families. This may not be an easy mode of operating in a culture with a short attention span. It is in fact likely that

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125. *See e.g.* Zenit.org, *Cardinal Ratzinger on Laicism and Sexual Ethics: "An Aggressive Secular Ideology Which is Worrying"*, http://zenit.org/english/; *select* Archives, Nov. 19 (Nov. 19, 2004).

126. Weigel, *supra* n. 121, at 166.

127. Pope Paul VI *Gaudium et Spes*, Nos. 46-52 (Dec. 7, 1965) (available at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html).

128. *Id.* at No. 47.

129. *See e.g. There Is Hope after Abortion*, http://hopeafterabortion.org; *Select* Contact Us (accessed Sept. 10, 2005) (sponsored by the Secretariat for Pro-life Activities of the USCCB, promising "There is hope after abortion," and inviting women who have had abortions to call "Project Rachel" for help).

130. U.S. Conf. of Catholic Bishops, *Statement on Same-Sex Marriage*, http://www.usccb.org/laity/marriage/samesexstmt.shtml (July 1996) ("[T]he Catholic Church teaches emphatically that individuals and society must respect the basic human dignity of all persons, including those with a homosexual orientation.").

131. *See e.g.* Catholic Charities, *AIDS Ministry, "What's in a Name?"*, http://www.catholiccharitiesoregon.org/503-231-4866/services/aids.asp (accessed Sept. 7, 2005) ("Most of the pastoral ministries to Oregonians living with HIV or AIDS disease come from Catholic Charities AIDS Ministry—without regard to religious affiliation.").

the Church has some regret that positive efforts to strengthen marriage may be conflated or overshadowed in the public mind with efforts to prevent same-sex partners from achieving marriage. Yet, these kinds of dilemmas and distinctions are common in the practice and the teaching of the Catholic faith. Avoiding them avoids the truth and is no kindness to the children of today or tomorrow.

Thirdly, another possible obstacle faced by the Church is its reluctance to see the government provide fewer dollars to anti-poverty efforts by using existing, not new, funds for programs on marriage and family. This reluctance shows through in the phrasing of a question in a background document given to social-justice ministry leaders at an annual gathering sponsored by the USCCB's Office of Social Development and World Peace. It asks, "Why should government resources be spent on marriage programs?" which was intended to be answered by the argument, "Others argue that marriage is irrelevant to poverty and government should not provide resources to low-income couples seeking help with their relationship[s]."[132] In their internal documents, both the Family, Laity, Women & Youth committees and the Social Development and World Peace offices of the USCCB stress that they believe that strengthening marriage and families has an "important" place in poverty reduction efforts. But they make it clear that they support new money, not existing TANF (Temporary Assistance to Needy Families) money, to accomplish this.[133] They also take care to mention that marriage-strengthening efforts should leave open the possibility that women may leave abusive relationships without penalty.[134]

It is consonant with the Church's teachings, and with the current needs of the many troubled families in the United States, to warn against short-changing families today in pursuit of future hopes for the family. Yet, care should be taken not to let these sentiments be interpreted as undercutting the actual relationship that does exist between stable family forms, education, and poverty—perhaps by explicitly mentioning this relationship while continuing to pursue help both for the families of today and tomorrow.

A fourth and final impediment to the integration of marriage and family issues into the consistent ethic is the possibility of charges that the Church is violating the proper separation of church and state by speaking on marriage and family legislation. This concern is especially pertinent given the historical and practical fact that church and state both have intrinsic and sometimes overlapping interests in these areas. In particular, both are concerned with the well-being of children, which is dependent on stable fami-

132. U.S. Conf. of Catholic Bishops, *The Annual Catholic Social Ministry Gathering Feb. 20-25, 2004*, "TANF Reauthorization: An Opportunity to Address Poverty," http://www.usccb.org/sdwp/asmg-04updates.htm#6 (Feb. 25, 2005).

133. U.S. Conf. of Catholic Bishops, *Hearing on TANF Reauthorization Proposals*, http://www.usccb.org/sdwp/national/tanftest05.htm (Feb. 10, 2005).

134. U.S. Conf. of Catholic Bishops, *supra* n. 132.

lies. The Church has additional religious concerns, of course, such as the role parents play in modeling God's love to their children and in passing on the Christian faith. Yet, both church and state increasingly understand the role healthy families play in the success of communities and even nations.

For several reasons, the Church ought not to let this concern hinder its efforts here. Over centuries, the Church has developed an expertise in conveying in the public square ideas drawn from natural law and thus accessible to reason. This has been the Church's method in the abortion debate, where it regularly deploys the best secular evidence about "the way things are" in service of a pro-life message.

It is also the case that the Church has vital, practical experience with the needs of the poor stemming from its charitable works. When representatives of the USCCB speak to the United States Congress on matters concerning social services, they commonly call this to mind: "The Bishops' Conference . . . draws upon the Church's experience living with, serving, and welcoming as members the poor among us. The Catholic community is the largest nongovernmental provider of human services to poor families. We meet the poor in our soup kitchens, shelters and Catholic Charities agencies."[135] This should provide the Church the kind of confidence in speaking about the needs of the poor that few voices could match.

With its experiences of teaching to a pluralistic society, and serving so many of its members, the Church is not likely to misspeak or overreach when it takes up the cause of marriage and family in the public square. It should, rather, speak often and with confidence about the needs, especially of the poor, for stable marriages and families.

One final note is the fact of lower divorce rates among practicing Catholics, as well as the fact that Catholic practices and teachings regarding marriage are increasingly finding scholarly support among those looking for ways to strengthen marriage. These should give confidence to the Church to continue to spread its marriage and pro-family message in the public square. It turns out, for example, that avoiding cohabitation and premarital sex helps avoid divorce.[136] Engaging in significant and directed preparation, such as the type the Church requires in its Pre-Cana programs, does too.[137] Additionally, attempting to live up to a standard of behavior external to the couple has been part of what kept marriages from falling apart in the past.[138] Christians are taught specifically that, for love of God, one another, and children, their marriage is expected to be permanent, exclusive, and responsibly fruitful. It should be a sign to the world of "what

135. *See* Curran, *supra* n. 36.

136. Teachman, *supra* n. 112, at 450.

137. McCarrick, *supra* n. 119 (concerning PREP, the most well known secular pre-marital preparation program).

138. *See* Cherlin, *supra* n. 66, at 848.

God's love looks like."[139] The disappearance of such external standards is correlated with the harmful "deinstitutionalization" of marriage in society at large; but such standards have never disappeared from the Church's teachings.[140]

V. CONCLUSION

Marriage and the family have been buffeted by political and cultural winds like few other institutions in recent decades; both children and communities have felt the effects. We have today, however, something not equally available even thirty years ago: a surfeit of good empirical evidence about the centrality of the family, built on marriage, to human flourishing. This evidence indicates that we have little time to waste and no time for prejudices—against men, women, marriage, or religion—masquerading as serious public policy. We know more completely and surely than ever before the effects on children of their family lives. The presence of stability, security, sincere interest, and sacrificial love (or not) in a home has much to do with its inhabitants' ability to respect life and to attain a dignified standard of living. Any legislative agenda sincerely directed to respecting life and to providing a dignified standard of living for every human being cannot fail to understand how these objectives are achieved by way of the family.

139. Pope John Paul II, *supra* n. 124, at No. 20 (marriage as a sign of the "unfailing fidelity with which God and Jesus Christ love each and every human being").

140. Cherlin, *supra* n. 66, at 852.

ARTICLE

SACRED MONKEYS AND SEAMLESS GARMENTS: CATHOLICS AND POLITICAL ENGAGEMENT

JOHN P. O'CALLAGHAN*

A hilarious scene in Evelyn Waugh's *Brideshead Revisited* portrays the politician Rex Mottram, Julia Marchmain's dim but powerful and sexually exhilarating suitor, taking instruction in the faith from a Catholic priest in order to marry Julia. The priest wants to find out whether Rex understands the doctrine of papal infallibility. The priest presents him with a hypothetical: "Supposing the Pope looked up and saw a cloud and said, 'It's going to rain,' would that be bound to happen?" Rex responds, "Oh, yes, Father." To which the priest responds, "But supposing it didn't?" Rex is surprised by the difficulty, and pauses, apparently deep in thought, as he tries to face it. Then inspiration hits: "I suppose it would be sort of raining spiritually, only we were too sinful to see it."[1] Later Rex charges the priest with "holding back" on him the deeper mysteries of the faith. He knows a very pious Catholic who has told him of the sacred monkeys that inhabit the Vatican, as well as the need to sleep with one's feet pointing east so that one can walk to heaven if one dies in the night. Julia's little sister Cordelia had been playing a joke on Rex when she told him these things. Waugh, of course, was not attempting to ridicule the teaching on papal infallibility. He was sending up the general cultural ignorance of Englishmen on the nature of papal infallibility, an ignorance portrayed as comparable to the stupid social prejudices against Catholics who cannot see the absurdity of such claims like sacred monkeys living in the Vatican, and walking one's way to heaven. No need even to mention tunnels between the convents and the rectories. Rex Mottram stands in for William Gladstone, the nineteenth-century prime minister of England, who, upon the proclamation of papal infallibility at Vatican I, had charged that no Roman Catholic could any

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1. Evelyn Waugh, *Brideshead Revisited: The Sacred and Profane Memories of Captain Charles Ryder* 192 (Little, Brown & Co. 1946); *Brideshead Revisited* (Acorn Media 1981) (mini series).

longer be considered a loyal subject of the British throne, since he concluded the proclamation entailed that Catholics owe allegiance in all their acts to a foreign potentate.[2] Cardinal Newman answered Gladstone's charges in his famous "Letter to the Duke of Norfolk."[3]

The focus of this paper is not the doctrine of papal infallibility and its bearing upon the thoughts and actions of Roman Catholics. My aim is to consider the broader question of Catholic teaching in general, and the ways in which it ought to inform the minds and actions of Roman Catholics as they seek to engage the political community. In some ways, in our own day, Catholics find themselves in a situation similar to Rex's and Gladstone's within and without the Church when they reflect upon what is often called the *seamless garment* and the *consistent ethic of life*, a concept that they hope can inspire a genuine Catholic engagement with politics, law, and social life. The seamless garment is a beautiful metaphor taken from the Gospel[4] that is designed to capture the fullness of Catholic teaching about the common good, and to inspire Catholics as they live out their lives as citizens of this nation. But if Catholics regard the seamless garment merely on the level of metaphor, and do not seek to engage and educate themselves about the actual teachings it tries to portray, they run the risk of confusion within their own efforts, as well as the grave disservice of spreading confusion about and discredit upon the Church among their fellow citizens who do not share their faith.

I will argue here that one must distinguish in one's political engagement between questions of principle and questions of prudence. Failure to make such a distinction leads to what I term "policy utilitarianism," which tends to calculate, in a simplistic and uninformed manner, the number of policies a particular politician or party "gets right" from a Catholic perspective without recognizing that some policies are more fundamental to the common good of society than others, because they are principles of that common good. I will argue that such "policy utilitarianism" is an abuse of the virtue of prudence. The genuine exercise of prudence may, according to circumstance, tolerate the violation of a principle fundamental to the com-

2. William E. Gladstone, *Vatican Decrees in Their Bearing on Civil Allegiance: A Political Expostulation*, in *Newman and Gladstone: The Vatican Decrees* 5, 5 (Alvan S. Ryan ed., U. of Notre Dame Press 1962). Gladstone asserts, "That [the pope] therefore claims, and claims from the month of July 1870 onwards with plenary authority, from every convert and member of his Church, that he shall 'place his loyalty and civil duty at the mercy of another': that other being himself." *Id.* at 45.

3. John Henry Newman, *Letter to His Grace the Duke of Norfolk*, in *Newman and Gladstone: The Vatican Decrees*, *id.* at 73.

4. When the soldiers had crucified Jesus, they took his clothes and divided them into four shares, a share for each soldier. They also took his tunic, but the tunic was seamless, woven in one piece from the top down. So they said to one another, "Let's not tear it, but cast lots for it to see whose it will be," in order that the passage of scripture might be fulfilled (that says): "They divided my garments among them, and for my vesture they cast lots." This is what the soldiers did.

John 19:23-24 (New Am. Stand.).

mon good, but it cannot simply trade it off against policies that are means for pursuing the common good. Failure to make that distinction leads to complicity in the violation.

The Seamless Garment: Gospel Value or Confused Metaphor?

Rather than being an invitation to consider more closely and carefully the nature of Catholic teachings that bear upon political issues, the image of the "seamless garment" as it is actually used in contemporary political discourse is little more than a screen behind which abhorrent policies, particularly pro-abortion policies, can hide. And thus use of it promotes serious confusion within the community about how Catholics ought to engage in political life. Instead of being, as it should be, a self-standing, independent approach to legal and policy issues informed by Catholic faith that treats the different political parties as instrumental goods in service to it, the seamless garment becomes a rhetorical instrument enslaved to the goals of the parties, and for historical and cultural reasons, more often than not the Democratic Party. That use all too easily leads to the development of policy utilitarianism in Catholic political action.

Prompted by electoral cycles and the cultural-political arguments about the role that faithful Roman Catholics should play in the development of law and policy, the "seamless garment" is often used to draw vague analogies between Catholic teachings on abortion, the death penalty, war, economic justice, health care, and other law and policy issues of concern to Catholics. The vagueness of these analogies suggests that we are all in danger of being Rex Mottrams now—it seems that either everything said by the pope commands and rules us without exception or nothing does. We might as well go to sleep with our feet pointing to the east, and sometimes we will have to look very hard to discern the spiritual rain.

What do I have in mind? One frequently hears politicians, media commentators, and even opinion makers among one's fellow Catholics claiming that if one is supposed to allow Catholic teaching in opposition to abortion, euthanasia, torture, and so on to bear upon one's views on law and public policy, so equally one must allow Catholic teaching in opposition to the death penalty or the application of principles of just war, economic development, health care, and so on to bear upon one's voting. At a rather high level of abstraction, this claim is true if Catholics are going to take their faith seriously in pursuit of social and political justice ordered toward the common good. One must strive to have the teaching of the Church on all these questions inform one's political activity. The problem is that at that high level of abstraction, it gives no actual guidance about how to consider those teachings in relation to one another.

We are by now used to abortion as the major battleground. But we can add torture as well to the list of political hot-button issues the opposition of

which must be weighed against all the other political and social teachings of the Church in the complex weaving of the seamless garment. J. Peter Nixon described in an issue of *Commonweal* how two Catholic, Republican senators who are adamantly pro-life on abortion did not bother to raise an eyebrow at the appointment of a Catholic attorney general-designate who was involved in the second Bush administration's decisions about what acts would and would not count as torture in the War on Terror.[5]

Some might claim that what was argued in the administration was that the various types of acts do not count as torture according to the law, and therefore no one involved in the administration was actually advocating what he or she understood to be legally defined torture as such. But this is where we have to recall that with regard to most types of human action, neither law nor conscious inner intention creates their kind and moral character, but has to reflect it. The corsair may claim that he is merely testing the sharpness of his blade on the sailor's neck. But of course we know that he is wrong in the "merely." If the law allows such acts, it is the obligation of the president's advisors, as public servants, to not simply give the "narrow legal opinion," but to point out that it is a bad law for not reflecting the genuine character of these acts, and that a just government will not do the bad things that bad laws allow it to do. Legislators and officials, informed by the long tradition of the Church's reflections on the natural law and politics, are particularly well placed to make this point. Yet these Republicans lost the opportunity to demonstrate that they are not in the back pocket of their party in the way that pro-abortion Catholic Democrats are in their own when they "weigh" the Catholic teaching about abortion against all the various issues of social justice. So in the political forum one might charge them with inconsistency, as the Church teaches that torture is an intrinsically evil act, just as abortion is.[6]

Still, in charity, those of us who count ourselves as Democrats ought to grant that the Republican Party does not have a thirty-year history of supporting government-sanctioned torture, does not have a plank in its platform supporting torture, does not have a history of using a litmus test for national office involving the support of torture, does not have leaders appearing at the pro-torture conventions seeking political and financial support, and does not yet have numerous Catholic members privatizing their opposition to

5. J. Peter Nixon, *For God or Country?*, 132 Commonweal 4, ¶ 5 (Feb. 25, 2005).

6. Consequently, without in the least denying the influence on morality exercised by circumstances and especially by intentions, the Church teaches that "there exist acts which *per se* and in themselves, independently of circumstances, are always seriously wrong by reason of their object." The Second Vatican Council itself, in discussing the respect due to the human person, gives a number of examples of such acts: "Whatever is hostile to life itself, such as any kind of homicide, genocide, abortion, euthanasia and voluntary suicide; whatever violates the integrity of the human person, such as mutilation, physical and mental torture and attempts to coerce the spirit . . . ."

Pope John Paul II, *Veritatis Splendor (The Splendor of Truth)* 101 (St. Paul Books & Media 1993). The passage goes on to include many more acts that are "offensive to human dignity." *Id.*

torture. Neither of the senators mentioned said, "I am personally opposed to torture, but . . . ."

Against this background, in practice and stated without a serious reflection upon the nature of the teachings involved, too often the "seamless garment" is a vague and misleading phrase that ignores the significant differences between the various teachings involved. In particular, if we are honest, we have to grant that the metaphor of the seamless garment and the vague analogies it is designed at times to advance in our political discourse are often little more than a rhetorical hammer wielded to blunt the criticism directed toward pro-abortion politicians, particularly when they are Roman Catholic. This tactic relies upon a perception, correct or not, that while some candidates are strongly pro-life when it comes to abortion, those same candidates do not adhere to Catholic teaching across the board on these other issues.

The use of the metaphor in actual political contexts is often designed to suggest that pro-abortion candidates who are also Catholic tend to support laws and policies that reflect Church teachings on the death penalty, economic development, and other issues of Catholic social teaching, and so in some ways they are better "overall" candidates on the seamless garment, while pro-life politicians are not. Why then single out Catholic lawmakers who are pro-abortion candidates for criticism for not abiding by their Catholic faith in politics? From the perspective of Catholic teaching, it appears to be a tossup between pro-abortion and pro-life policy makers, as it is practically impossible to find any who are consistently "Catholic" across the board. One ought to recognize that one can be pro-abortion *and* pro-life in the "larger sense" of the seamless garment. A consistent ethic of life will leave room for pro-abortion Catholic politicians, because they get most of the other stuff right. Indeed, because they presumably get most of the other stuff right, perhaps it isn't even a tossup, and Catholics are actually obliged to vote for the pro-abortion candidates.

On the contrary, the problem we face, if we want to have a genuine seamless garment, is that few care to ask, much less investigate, whether the analogies being made here are appropriate. It is as if we have a seamless garment with no distinction between the patterns woven into it and the thread with which it is woven. It is simply assumed that there are no significant differences between the teachings of the Church that might bear upon one's informed judgments in the legal and policy-making arenas. In the spring of 2004, in the context of the public discussion of the denial of communion to pro-abortion Catholic politicians, Victoria Kennedy claimed just that in an op-ed piece for the *Washington Post*.[7] She wrote,

7. Victoria Reggie Kennedy, *The Altar is Not a Battlefield*, Wash. Post B07, ¶ 7 (May 23, 2004).

> Despite the unambiguous church law [on the death penalty], there has been no talk of withholding Communion from pro-death-penalty Catholics. Where is the logic or moral justice in punishing those who allow a person to make a private moral decision [to have an abortion], while remaining silent about those who authorize the government to take a life and thereby deprive a human being of his God-given right of salvation?[8]

Let us bracket from this discussion the question of Church discipline involving the reception of communion. Apart from any material questions about the accuracy of Ms. Kennedy's account of the relevant teachings on abortion, the death penalty, and individual conscience, the prospect of denying "a human being of his God-given right of salvation"[9] is clearly intended to be a rhetorical counterweight to the pro-life movement's charge that abortion denies an innocent human being of his or her God-given right to life. Theologians, of course, may wrestle with Ms. Kennedy's claims that abortion involves a "private moral decision,"[10] and that salvation is a "God-given right,"[11] as well as the implied murkier metaphysical depths of the claim that any human being could in some fashion prevent the efficacy of God's saving grace from having its effect upon those who submit to it.[12]

In addition, just before the election of 2004, in an op-ed piece in the *New York Times*,[13] the dean of the College of Arts and Letters at the University of Notre Dame explicitly compared the horror of abortion to the horrors of slavery and torture, and suggested that history would in the end judge it to be so.[14] And yet, Stephen Douglas-like, he suggested that the weighing of issues of concern to Catholics against the Church's teaching on the horror of abortion suggests that Catholics would be well advised to vote for candidates who appear to support the wide range of Catholic social teaching despite their clear pro-abortion stance—in effect, that they ought

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8. *Id.*
9. *Id.*
10. *Id.*
11. *Id.*
12. Part of the theological difficulty of Ms. Kennedy's argument is that presumably in the Christian tradition salvation is a gift simply. *Id.* It is an extraordinary confusion to place that gift in the political context of "rights" discourse. To claim a "right" to something is to claim that it is due to one, and that others ought to provide or protect it to the extent possible; if the claim to a right is legitimate, certainly others ought not to deny it or destroy it. Thus, because one's life can be destroyed by another, one can speak coherently of a "right" to life, whether that claim is legitimate or not. However, it is only God, through the grace of the incarnation, death, and resurrection of Jesus Christ, who gives salvation. If that gift is accepted by someone, it cannot possibly be denied or destroyed by any other creature. To suggest that it could be denied or destroyed by someone other than the recipient, would, within the Christian tradition, be a heretical denial of the efficacy of God's grace. Because it is given by God through whatever means He chooses, and it can be neither denied nor destroyed by any creature other than its recipient, it is incoherent to claim that salvation is a "right" in the Christian tradition.
13. Mark W. Roche, *Voting Our Conscience, Not Our Religion*, N.Y. Times A23, ¶ 10 (Oct. 11, 2004).
14. *Id.* at ¶ 2.

to vote Democratic.[15] Pursuing this analogy, one might wonder whether in a regime in which slavery and torture are legal acts, one is justified in supporting the pro-slavery and pro-torture lawmakers provided they appear to get "health care," "welfare," the minimum wage, and opposition to the "war in Iraq" right.

My concern when I hear this public rhetoric from opinion makers in the Catholic community is that the seamless garment as a metaphor for Catholic political engagement becomes little more than a rather dull, drab, and undistinguished costume for one party or another, little more than a rag concealing a set of utilitarian calculations loosely woven together.

Philosophers are inclined to distinguish two types of utilitarianism. *Act utilitarianism* holds that one ought to pursue the act that here and now maximizes overall happiness. *Rule utilitarianism* holds that one ought to act upon the rule that in the long run and for the most part will maximize overall happiness. Often when I hear Catholic leaders talking about the seamless garment, I am inclined to distinguish a third type, *policy utilitarianism*, which holds that so-called Catholic issues must be weighed one against another to arrive at an overall mix that reflects in some vague way our "sense" of Catholic teaching without having to look too closely at any particular one to see how it is to be judged against another. "We are for the poor." "They aren't." "We want peace." "They don't." And so on. In practice, Catholics end up stifling anything distinctive that might cause them to lose whatever influence they have among the array of interest groups competing for time in one or the other party.

Insofar as this vague utilitarian weighing of issues and policies fails to recognize a fundamental difference in the teaching of the Church on these issues, is this a responsible way for members of the Church to proceed in developing a genuinely Catholic approach to law, policy, and Catholic political engagement? Catholics ought to take seriously in their political lives such teachings as are given on abortion, torture, slavery, economic exploitation, as well as the death penalty, just war, health care, economic development, and welfare, among others. It is a seamless garment; but it is a garment with a pattern woven out of a particular thread, and one ought not to confuse that pattern with the thread. Thus, Catholics ought also to pay close attention to just what those teachings are. The teachings of the Church on the death penalty, a just wage, available health care, just war, and so on are not directly analogous to the teaching on abortion in particular, or slavery, torture, euthanasia, and so on. Because they are not, they cannot simply be weighed in a utilitarian calculus that trades off among them without distinction.

15. *Id.*

At the Foundations of Catholic Teachings Bearing upon Prudence and Politics

The virtue of prudence bears upon determining how to act well in concrete circumstances. It presupposes that the particular acts it bears upon are of such a kind that they may be done. Thus, in order to understand how prudence should function in political decision making, it is necessary to discuss the theoretical foundations for analyzing the features of actions that bear upon, in the first place, the question of whether they may be done, and, in the second place, of those that may be done whether they should be done. Only then can we appreciate how the virtue of prudence is the light within which the metaphor of the seamless garment communicates an authentically Catholic approach to politics.

Stepping back for a moment to consider theoretical foundations, the teaching of the Church is that the moral life of human beings is essentially teleological—it achieves a goal or end. Through deliberate and free action, human beings make of themselves certain characters. Quoting Gregory of Nyssa, Pope John Paul II wrote, "*We are* in a certain way our own parents, creating ourselves as we will, by our decisions."[16] We are characters whose lives, sometimes more and sometimes less, express a good that is characteristic of human life as such.

> The *morality of acts* is defined by the relationship of man's freedom with the authentic good. This good is established, as the eternal law, by Divine Wisdom which orders every being towards its end: this eternal law is known both by man's natural reason (hence it is "natural law"), and—in an integral and perfect way—by God's supernatural Revelation (hence it is called "divine law"). Acting is morally good when the choices of freedom are *in conformity with man's true good* and thus express the voluntary ordering of the person towards his ultimate end: God himself, the supreme good in whom man finds his full and perfect happiness.[17]

However brief, this passage summarizes the longstanding teaching of the Church that human actions find their point and purpose insofar as they lead human beings to union with God—that is their ultimate *telos*, characters fit for union with their creator. More proximate goals of human action are evaluated as good insofar as they participate here and now in limited ways in leading one to that ultimate goal. It also affirms the relation of human action to the natural law. The natural law is no arbitrary set of obligations imposed externally by God upon human life, but the expression within each human being of the imperatives necessary for achieving that union—the signposts along the way, as it were, warning against the dangers to be

16. Pope John Paul II, *supra* n. 6, at 91.
17. *Id.*

avoided and pointing out the goods to be enjoyed. Natural law can be known by human beings apart from any special divine revelation, and it is thus not sectarian.[18] Finally, it points out that knowledge of the natural law, besides being available to reason as such, is available within divine revelation. That claim establishes the authority of the Church to teach about not only what is specific to revelation as such—the Trinitarian character of God, the Incarnation, saving acts of Christ, and so on—but also about the features of the natural law itself.

For my purposes here, the most important claim in the passage cited above is "Acting is morally good when the choices of freedom are *in conformity with man's true good* and thus express the voluntary ordering of the person towards his ultimate end . . . ."[19] The questions here are, What sort of features must a freely chosen act have so that it may be "in conformity with man's true good,"[20] and what sort must it be without to cause it to be out of such conformity?

There are three features of any particular action that have to be taken into account in the evaluation of whether that action is a good action "in conformity with man's true good"[21] and, thus, should be done, or a bad action that ought to be avoided as lacking that conformity. The first feature pertains to the "species" or kind of act involved[22]—paying a wage to a worker, giving alms to the poor, engaging in sexual relations with one's spouse, engaging in sexual relations with someone who is not one's spouse, killing an innocent human being, killing a human being guilty of a crime, and so on. The second feature to be evaluated is the set of circumstances in which the particular act is to take place—whether one is capable of providing for one's family, whether the act will take place in public or in private, when determining punishment, the extent of extenuating circumstances that were involved in a crime, the condition of the prison system in a society, and so on. The third feature is the goal or goals for which the act is done, and the consequences that can be foreseen following from such an act—whether one is acting for self-aggrandizement, whether one is trying to promote a criminal enterprise, whether one is pursuing the goods of marriage, whether one is attempting to redress a wrong or slake the blood lust of the community, whether harm can be accurately foreseen as coming to others—that is, harm disproportionate to the goodness of the goals one is pursuing—and so on.

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18. Notice that the claim that natural law can be known by reason apart from revelation does not imply that it is explicitly known by any particular person, that the knowledge one may have of it is easily defended, or that philosophical arguments defending its theoretical foundations are easily persuasive to all.

19. Pope John Paul II, *supra* n. 6, at 91 (emphasis in original).

20. *Id.*

21. *Id.*

22. Pope John Paul II in *Veritatis Splendor* often uses "object of the act" in these contexts as well. The "object" of the act determines its *species* or kind. *Id.*

In order for a particular act to be judged a good act that should be pursued—that is, as "in conformity with man's good"[23]—it must be good with respect to all three features; it must be an instance of a good kind of act, done in the right circumstances, in pursuit of good goals and foreseeable consequences proportionate to those goals. For example, a particular act of sexual relations with one's spouse is an instance of a good kind of act, and yet if it is done in public, or for the purpose of expressing one's dominance over one's spouse, then it fails to be a particular good act. So an instance of a good kind of act can be rendered a particular bad act, because of the circumstances and, or the goals for which it is done and the consequences that may follow from it.[24]

However, there is a significant difference to be observed when considering the type of action involved. It is the teaching of the Church that, according to the natural law, there are certain acts that in their kind are intrinsically bad—for example, sexual relations with someone who is not one's spouse, torturing someone, and so on. What is characteristic of these kinds of acts is that particular instances of them may never be done, in any circumstances, or for any goals however good those circumstances and goals may be. "The weighing of the goods and evils foreseeable as the consequence of an action is not an adequate method for determining whether the choice of that concrete kind of behavior is 'according to its species,' or 'in itself,' morally good or bad . . . . "[25] And,

> if acts are intrinsically evil, a good intention [for goals and consequences] or particular circumstances can diminish their evil, but they cannot remove it. They remain "irremediably" evil acts; *per se* and in themselves they are not capable of being ordered to God and to the good of the person.[26]

In other words, no circumstances and no goals can justify performing such acts. Thus, there is a fundamental asymmetry between acts that are good in their kind, and acts that are bad in their kind. An instance of a good kind of act can be rendered bad in particular by bad circumstances or goals, while a bad kind of act can never be made good by circumstances or goals.

Catholic teachings against abortion, euthanasia, torture, and so on concern the kinds of acts involved. They are intrinsically bad. They are kinds of acts that may never be done; there are no circumstances or goals that could possibly justify doing them. Thus, any additional teaching about such circumstances or goals would be otiose. Catholic teaching on the death penalty, war, health care, and so on are *also* about the kinds of acts involved, but there is a significant difference in that these involve kinds of

23. *Id.*
24. *Id.* at 97-104.
25. *Id.* at 98.
26. *Id.* at 102.

acts that *may* be done; they are good in their kind.[27] Because they are kinds of acts that *may* be done, more has to be said about the typical circumstances in which and goals for which one should do them, as opposed to circumstances in which and goals for which one should not do them.[28] Here the teaching of the Church bears upon prudential counsel. In the case of the death penalty, for example, such counsel is very restrictive, while in the case of just wages and health care it tends to be expansive. But it is crucial that we recognize that these are in fact counsels of prudence. They are not—indeed, they cannot be—commands.

The Church does not claim the authority to *make* the prudential decisions herself about particular cases where, when, and why acts that are good in their kind should be done. On the contrary, consistent with the principle of subsidiarity,[29] and the dignity of the secular order, she recog-

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27. On war and the death penalty in particular, see *Catechism of the Catholic Church* Nos. 2308-2309 (on war), 2265-2267 (on the death penalty) (Ligouri Publications 1994).

28. *Id.* It may sound odd to say that acts of war may be good in their kind. But keep in mind that being good in kind does not entail that such an act may be done. Given the Church's teaching on just war, it is likely that in most circumstances and for most goals particular acts of war may not be done, even if good in kind. Being good in kind is simply a necessary condition for being a good act in particular; it is not sufficient. Consider the alternative—acts of war are intrinsically bad in their kind, though we may sometimes find ourselves seemingly forced by circumstances to engage in them to achieve certain goals we perceive to be good. Here Elizabeth Anscombe's remarks are apposite. "They become convinced that a number of things are wicked which are not; hence, seeing no way of avoiding 'wickedness,' they set no limits to it." G.E.M. Anscombe, *War and Murder*, in *Absolutism and Its Consequentialist Critics* 29, 36 (Joram Graf Haber ed., Rowman & Littlefield Publishers 1994).

29. *See* Pope John Paul II, *Centesimus Annus* No. 48 (May 1, 1991) (available at http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_01051991_centesimus-annus_en.html) ("[*T*]*he principle of subsidiarity* must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good.") (emphasis in original); *see also* Pope Pius XI, *Quadragesimo Anno* Nos. 78-80 (May 15, 1931) (available at http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html). The principle of subsidiarity in Catholic teaching concerns mediating institutions of civil society, those associations that individuals are born into or freely enter. The principle maintains that the authority to engage some sphere of human activity in such associations ought not to be usurped by larger more powerful or comprehensive associations, the most dominant of which will typically be the state. In short, what can be done locally and more personally ought to be done so, since larger more impersonal associations will be less likely to be capable of respecting the human dignity of the individuals involved, and will also distract those larger institutions from pursuing their appropriate goods.

While it is a principle taught by the Church, it is no sectarian rule applicable only to the Church and her members. The claim is that it is a principle that characterizes any human associations as such. One can discern it, for example, in the Tenth Amendment to the United States Constitution: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." While the principle does not mean that government governs best that governs least, it does imply that there are appropriate spheres of activity, with appropriate spheres of authority in the pursuit of that activity. Unlimited government would be a grave violation of this principle.

> As history abundantly proves, it is true that on account of changed conditions many things which were done by small associations in former times cannot be done now save

nizes that such judgments must be made by appropriate authority, an authority that she does not in general possess.[30] So, for example, contrary to what Victoria Kennedy claims,[31] the Pope's and the Catechism's recent teaching on the death penalty is not a matter of Church "law," nor is it a command directed to Catholics to act in a certain way, but an exhortation that political authority ought to consider very carefully in pursuing the good of our lives together. Catholics in particular should pay special attention to it, and give it a great deal of weight in their decision making. Certainly they may not simply dismiss it in their judgments. However, a particular judgment that is not in accord with such an exhortation is not *ipso facto* a simple dismissal of it, anymore than an exhortation to give as much as possible of one's wealth to the poor is *ipso facto* simply dismissed if here and now one does not throw the entire contents of one's wallet in the poor box.

The Church's teaching on the death penalty is an exhortation with which this author wholeheartedly agrees.[32] But it is not of the same order or kind as the teaching on abortion, which does not have the form of an exhortation but of an absolute moral norm.[33] However, the Church does not claim the authority to *command* in cases of absolute moral norms that

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> by large associations. Still, that most weighty principle, which cannot be set aside or changed, remains fixed and unshaken in social philosophy: Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do . . . . The supreme authority of the State ought, therefore, to let subordinate groups handle matters and concerns of lesser importance, which would otherwise dissipate its efforts greatly.

Id. at 79-80.

Government has its role to play in promoting the conditions necessary for the flourishing of such mediating institutions of civil society. Typically the authority of an association of civil society will not derive from the authority of some larger more comprehensive association. The authority of parents within a family, for instance, does not derive from the authority of the state, even though the family lives within the state. The task of the state is to promote those conditions within the larger community that assist in the free exercise and flourishing of the parents within their sphere of authority. The principle, however, does not simply limit states and governments; it is a principle about all communities and associations. Insofar as the Church is such an association of "universal" extent, with its own internal principles of governance, it too cannot usurp the authority of other mediating institutions like nation states, cities, families, and so on in the exercise of just government.

30. In the case of war, see *Catechism of the Catholic Church*, *supra* n. 27, at No. 2309 ("The evaluation of these conditions for moral legitimacy belongs to the prudential judgment of those who have responsibility for the common good."). In the case of the death penalty, see *id.* at No. 2266 ("Preserving the common good of society requires rendering the aggressor unable to inflict harm. For this reason the traditional teaching of the Church has acknowledged as well-founded the right and duty of legitimate public authority to punish malefactors by means of penalties commensurate with the gravity of the crime, not excluding, in cases of extreme gravity, the death penalty. For analogous reasons those holding authority have the right to repel by armed force aggressors against the community in their charge. The primary effect of punishment is to redress the disorder caused by the offense . . . .").

31. Kennedy, *supra* n. 7.

32. *Catechism of the Catholic Church*, *supra* n. 27, at Nos. 2266-67.

33. Pope John Paul II, *supra* n. 6, at 80.

specify acts that are bad in their kinds. She claims the authority to teach the truth about them. Her teachings on such matters reflect a moral order that she herself does not create—the natural law. She does not command or legislate that acts of abortion, euthanasia, or torture are intrinsically bad any more than she commands or legislates that two plus two equals four, indeed any more than she commands the rain to fall. The authority of the Church to command or forbid particular actions on her own authority is generally restricted to questions of Church discipline.[34] Thus, such teachings on negative absolute moral norms—that is, kinds of acts that are intrinsically bad—are neither matters of sectarian belief nor Church discipline. It was Gladstone's failure to recognize these facts that Newman pointed out to him, among other things. Our failure to recognize this nearly a century and a half later makes Rex Mottrams of us all.

In addition to abortion and euthanasia, the Church gives acts of torture and slaveholding, among others, as examples of acts that are bad in their kind.[35] No particular circumstances or goals can make acts of torture or slaveholding good, because they are bad in their kind. Insofar as the Church claims to be teaching about the appropriate circumstances and goals for the exercise of the death penalty, however limited and narrowly she thinks those circumstances and goals may be, she has already judged that it is an act good in its kind. If the death penalty were a kind of act that is intrinsically bad, then there would be no circumstances at all in which it could be used. But the Church teaches that there are circumstances in which it may be used. Therefore, the Church teaches that it is not a kind of act that is intrinsically bad. The Church is not saying (thank God) that the death penalty is an evil means that one may use in extreme circumstances in order to achieve some good end.

An Objection to the Role of Prudence in Catholic Political Action

An appeal to the role of prudence in political action can appear to many as little more than an appeal to be cautious in such a way that one refrains from action. Such an objection is based upon a misunderstanding of the nature of prudence. This misunderstanding takes place against the background of a cultural use of the term "prudence" that suggests that in a democratically diverse society one ought to refrain from acting upon highly contested issues. The solution to this problem, however, is not to abandon genuine prudence. It is, rather, to reform the culture in light of the role of genuine prudence in human action and, in particular, the Church's teachings about human action.

Consider the following objection: Some are afraid to introduce the language of prudence into discussions about the pursuit of the goods of social

34. *See* Newman, *supra* n. 3.
35. *See* Pope John Paul II, *supra* n. 6, at 80.

justice, because they think it is just a rhetorical way of dismissing the importance of the goods involved in health care, economic development, welfare, and so on. They fear that because it is claimed that these are matters of prudential judgment, and because it often appears that the arguments we have about them are irresolvable, one is really suggesting that we must simply agree to disagree, which in effect means doing nothing. For fear of not doing anything, it's better simply to insist that one's own position or positions very close to it—particularly positions typically advocated within one political party and excluding the other—are the only genuine ways of pursuing the teaching of the Church on social justice.

There is a grain of truth in this objection. Certainly in the course of political engagement some may use the word "prudence" as a tool to dismiss disagreement while one pursues one's own position, heedless of the views of others, particularly the teaching of the Church. But, of course, that use of "prudence" is not real prudence. It is, rather, the abuse of prudence. However, the response of the objector to this abuse of prudence looks to be equally as dismissive of the actual views of his fellow citizens, even as they may dismiss his own.

The alternative to prudence, exhibited at times by those who offer this objection, is, in effect, to make an absolute rule out of every moral and political thesis. But do such rules have exceptions or are they exceptionless? If they are exceptionless, then moral and political life is reduced to a mechanical observation of abstract rules fit for unthinking machines, not persons. Such rules lend themselves very easily to the impersonal bureaucratic state. One's claim about just how much of the national economy ought to be devoted to health care and the alleviation of poverty is not subject to questions about the circumstances in which it is to be carried out, and whether it actually works to promote those goals; it is instead handed over to a class of bureaucrats, technicians, and "experts." It is simply the rule, and it is either right or it is wrong. If the Church teaches it, we know it must be right. Our task for public life is simply to obey, not to participate thoughtfully and responsibly in the creation of our common life together. There is no genuine democratic life here.

On the other hand, if such rules are subject to exception, and one has to evaluate particular political and moral claims in terms of the circumstances of their application and their effectiveness in pursuing the goals one is trying to promote with them, then prudential judgments need to be reintroduced. To deny the role of prudence here amounts to little more than a cutting off of the need to convince one's fellow citizens through argument and persuasion that one is in fact proposing the best means for pursuing the common good. But insofar as such argument and persuasion is itself part of the common good of living together as free and responsible citizens in a democracy, the denial of it and the effort to simply assert apodictically one's own position as the only legitimate one is itself an attack upon the

common good that only undermines it. It leads to a culture of shouting, not argumentative persuasion.

But for our impoverished, sacred-monkey culture of moral and political discourse, it is not necessary to point out that "prudence" here does not mean cautious inaction. Prudence is that virtue by which we integrate a number of other virtues—in general, justice, temperance, and courage—when we judge whether particular good acts are to be done, in what circumstances, and for what goals, both individually and politically. Prudence has no role to play at all in the evaluation of acts bad in their kind, since such acts may never be done. There is no prudence applied to the task of integrating justice, courage, and temperance in deciding when and for what reasons to engage in torture, rape, theft, adultery, and so on. On the other hand, prudential judgment finds its appropriate application in the integration of justice, courage, and temperance in the evaluation of the circumstances in which, and goals for which, acts good in their kind may be done—for example, the levels of health care, welfare, defense, education, and so on that it is appropriate for the state to provide its citizens. Prudence is the way to pursue genuine goods in our common life together, precisely because they are genuine goods; it is not a way of avoiding them.

Finally, recourse to prudence does not imply that both or all sides to an argument are "right" and it is just a matter of preference which side to pursue. It may often be the case that one or more sides to an argument about the integration of particular goods may be wrong in what they are suggesting is the best policy given a certain goal, or the integration of several goals. On the other hand, there is no particular Church teaching determining beforehand who is and who is not wrong on these issues of social justice. For example, granting that the community must provide adequate health care to its members, there is no teaching on just how involved the various organs of government ought to be in guaranteeing it. The principle of subsidiarity suggests that while government may be involved, the more local and close to hand the better. But it does not tell us just what the balance of public and private initiative should be in providing health care, and what the balance of the national versus the local should be. It is the role of genuine politics, not Church authority, to provide a space for us to work these questions out justly and charitably in our concrete circumstances. Insofar as the Church teaches universally, it is absurd to suggest that she has the authority to teach a detailed, particular policy about how health care is to be structured in all nations at all times. She does not claim the authority to determine for a given nation how its health care ought to be structured versus some neighboring nation, much less a nation on the other side of the world. The case is similar for the death penalty, just war, economic development, a living wage, and so on.

This recognition of the role of prudence is based upon the distinction Pope John Paul II made in *Veritatis Splendor* between negative norms that

bind always and everywhere, and positive norms that do not. Negative norms bear upon kinds of actions that are intrinsically bad, that may never be done in any circumstance or for any goal. Thus, there is no prudence involved in judging when and how to adhere to them; one simply must do so. But as I mentioned above, the Church is not commanding one to refrain from such acts. She is simply teaching the moral norm that she did not create. Positive norms, on the other hand, bear upon the pursuit of the various goods of human life. The reason positive norms do not bind always and everywhere is not because they are merely matters of choice or preference which one may simply disregard as not the good one chooses to pursue. On the contrary, they *ought* to be pursued. But because there are so many ways of doing good, and one cannot exhaust those ways, one must use one's judgment about how best to pursue those goods here and now, as well as in the future as circumstances change. Prudence is the virtue that pertains to that judgment.

If we do not recognize this fact about the positive goods of social justice to be pursued versus the evils to be avoided, we end up with an intolerable conflict between goods, where one is inevitably sacrificed for another. If I am always and everywhere giving to the poor, as supposedly I ought, then I cannot educate my children always and everywhere, as supposedly I ought; I cannot care for my parents; I cannot contribute to my Church; and so on. If I am to devote all my time and resources to alleviating the material poverty of those around me, as supposedly I ought, I will not have time to alleviate the spiritual poverty of my students as I ought. If all of our national resources are to be devoted to the alleviation of hunger, we will have none for health care, economic development, and so on.

In general, it is the teaching of the Church that it is the distinctive task of laypersons acting in the world to examine and evaluate concrete circumstances in order to apply her teachings on the various political and social goods to the particular features of the societies in which they live. Thus, to reduce those teachings to mechanical rules actually rejects those teachings of the Church that one is claiming to uphold. So the danger, when we reject prudence for fear of its abuse in our moral and political judgments in pursuit of the common good, is that we may create something worse than the abuse of prudence. We create modes of self-interested utilitarian calculation in pursuit of public policy, in which it is all too easy to put our own self-interest ahead of the poor and suffering, or we create dehumanizing rules and obligations with which we seek to command our fellow citizens, often in an authoritarian way, rather than to argue and persuade. These rules and obligations often appear to be political idols in the mouths of their defenders. Such idols are put forward as if they were self-evident truths to a community that, failing to grasp their self-evidence, often reacts against them in a self-interested way, not even bothering to consider them as a way to pursue the genuine goods of social justice.

It is true that it is not a prudential judgment that we ought to feed the hungry, clothe the naked, minister to the sick, and attend to the dying. These *are* obligations. The determination of which policies will best promote those genuine goods and help us to fulfill those obligations in our circumstances is, however, a prudential judgment. And, it is both unjust and uncharitable to assume that someone who disagrees with another about which policies will best promote those goods also rejects the basic goods that those policies are designed to promote. Even as I may be convinced that I am correct and my opponent incorrect, to simply assert such is to make idols of my judgments.

Now a prudential counsel concerning some type of act is not itself a prudential judgment concerning a particular instance of that kind of act. In most cases, the authority to make the particular prudential judgments involved in the pursuit of these goods does not reside with the pope or the Church. According to the Church, the authority lies with the person or persons who hold the legislative and executive power to care for the common good of a particular political community. The Church's prudential counsel is no substitute for their prudential judgment. And, a central feature of prudential counsel—whether it comes from me, the pope, or, broadly, the Church—is that it cannot bind beforehand a prudential judgment. Here the "should" involved in such counsel can only be an exhortation, not a command.

There is a logical point here as well. As statements, prudential counsels themselves can only be of general—that is, indefinite—logical form. They are, for example, of the form "you ought to pursue the good of children"; "you ought to pursue the good of health care"; "you ought to avoid the use of the death penalty"; and not of the form "you ought always and everywhere to pursue the good of children"; "you ought always and everywhere to pursue the good of health care"; "you ought always and everywhere to avoid the use of the death penalty." It is absurd to claim that such counsels apply always and everywhere, because, in the first place, there may well be circumstances in which one or another of them does not apply at all because one is pursuing some other counsel. One cannot be pursuing the good of health care when one is pursuing the good of marital relations; one cannot be pursuing the good of marital relations when one is pursuing the good of teaching one's students; and so on. It is at least conceivable that a human being could simultaneously and successfully avoid engaging in all those acts specified in absolute negative norms; it is not conceivable that a human being could simultaneously engage in all the acts specified in positive norms as goods. Apropos of this point, Walker Percy wrote, "Lucky is the man who does not secretly believe that every possibility is

open to him."[36] It requires prudence to determine which goods to pursue here and now.

In the second place, even in circumstances in which they may apply, those circumstances will be almost infinitely different in different places and different times. But it is equally absurd to claim that these prudential counsels actually could specify how they are to be applied differently in every possible different circumstance. In other words, they cannot be statements specifying exact particulars, since as prudential counsels they precede any possible particular circumstances to which they might be applied and, thus, *a fortiori*, the range of possible particular circumstances does not exist and cannot be precisely specified to every jot and tittle. Newman made a similar point to Gladstone in the "Letter to the Duke of Norfolk":[37] "Plus ça change . . . ."

Prudence in Act

Against the background of this theoretical discussion of human action and prudence, what practical applications does prudence have for Catholic political engagement? Prudence has a twofold role to play in the politically engaged Catholic's contemporary life. In the first place, it has a role to play in the judgment of how to integrate many different social goods involving actions that may be done. It has no role to play in pursuing social evils involving actions that may not be done. In the second place, however, it does have a role to play in judgments involving the toleration of various social evils, particularly when those social evils are legitimated and even promoted by laws and public policies that one is unlikely to be able to change in the present context. Failure to observe this secondary role of prudence may lead to policy utilitarianism and, ultimately, complicity in them; that is, a complacent cooperation in those social evils.

So, by engaging a proper understanding of prudence, Catholics are faced with different questions about the various Church teachings that enter into the seamless garment when they try to develop law and public policy. What is the nature of the teaching involved? Does it enunciate an absolute negative moral norm, or does it enunciate prudential counsel? Consider the difficult decisions Catholics face in voting every election cycle. As a Catholic and a citizen, I agree with the Pope's teaching concerning the death penalty expressed in *Evangelium Vitae* and the Catechism. I would urge my fellow Catholics and citizens to maintain it as wholeheartedly as I do. But we should oppose the use of the death penalty for the right reasons. Given what that teaching is, it does not itself pose an obstacle for me to vote for a candidate who favors the death penalty as a kind of punishment,

36. Walker Percy, *The Last Gentleman* 4 (Farrar, Straus & Giroux 1966).

37. Newman, *supra* n. 3, at 134.

since that is what the Church teaches is its good.[38] For example, given the fact that John Kerry supports the use of the death penalty in certain circumstances, his support for it did not provide me with a reason to oppose him for president in 2004. If Senator Kerry supported it in line with the teaching of the Church, he did so because he thought it is an act good in its kind. I certainly hope he did not do so because he thought it an evil means that in certain circumstances one could use to achieve a good goal. But I may judge that this or that particular candidate has been particularly vicious in the circumstances of his or her exercise of the death penalty, or I may judge that the goals for which he or she proposes to exercise it are base, and these judgments may give me prudential reasons to vote against him or her.

This kind of analysis holds for other aspects of the teaching of the Church concerning acts good in their kind that fall under the broad category of social justice, such as a just wage, available health care, economic development, and so on. The extent to which government should be involved in setting minimal legal standards in promoting these aspects of the common good is a matter of political prudence, and a candidate's particular weighing of that involvement may give me prudential reasons for or against voting for him or her. My particular background tends more often than not to lead me to agree with the older traditions of the Democratic Party. But that there are Catholics—Democrats and Republicans—who disagree with me in such judgments is simply a reflection of the ways in which judgments of political prudence differ among people of good will, much like judgments of marital prudence differ among couples pursuing the goods of marriage as to when, how often, why, and so on.

Political support for abortion, euthanasia, and so on is quite different, however, as it involves political and at times financial support legitimizing the act of killing innocent human beings, a kind of act that is bad in its kind. It is part of the tradition and history of political wisdom in the Church that not every act bad in its kind need be prohibited by law—adultery or lying, for instance. It does not follow, however, that there are none that *must* be prohibited—rape and murder, for instance. Indeed, the case of killing innocent human beings is unique and fundamental to the common good in questions of lawmaking and policy. The common good is constituted by the social and political good of its members. There is little point or purpose to pursuing the common goods involved in adequate wages, welfare, health care, and education, for instance, if the subjects of those goods may be killed at will. All innocent human life must be protected in law if the promotion of these other goods is to be genuine and anything other than a promotion of ersatz "values" determined by social whim. If we will trade the lives of the innocent for these prudential goods, it is little wonder that others would trade in favor of torture under the guise of protecting them.

38. *See Catechism of the Catholic Church*, *supra* n. 27, at No. 2266.

And, it is little wonder that many others care little for our talk of the importance of pursuing prudential goods in a "seamless garment" when they see the ways in which we are willing to abandon the thread of the common good—namely, the inviolability of innocent human life. There is no justice or mercy where there is no ability to say no.

Consider a second objection to my appeal to the distinction between adherence to absolute moral norms that forbid always and everywhere, and the prudence that judges how, where, and when to pursue various goods. This objection grants the legitimacy of prudential decision making in political life, but claims that prudence is not only involved in deciding which goods to pursue in our lives. In a pluralistic democracy like ours, prudence must also be involved in the political judgments about what can and cannot be achieved through the political process. This is particularly the case when those teachings are grounded in principles involving reference to our ultimate *telos*, as Catholic teachings about them typically are. We cannot assume in a pluralistic democracy like ours that our fellow citizens share that vision of our ultimate *telos* or adherence to those principles. Thus, it is a prudential judgment that one must tolerate liberal abortion laws in our pluralistic society, and the failure to make that prudential judgment may well distract one from pursuing policies that will promote the other goods the Church teaches ought to be pursued for the sake of the common good. Where the first objection I considered questioned the place of prudence in such discussions, this one grants its legitimate role in many areas of our lives, but seeks to expand it to include judgments as to whether one ought to support or work against pro-abortion politicians and their policies. So, the objector may well grant that while one may personally abhor pro-abortion policies, one must exercise a judgment of political prudence as to whether one ought to oppose those politicians who advance them.

Just as there was a grain of truth in the earlier objection, there is one here as well. Voting will always be an exercise of prudence. Insofar as one must consider candidates—all or many of whom may be pro-abortion—in the midst of supporting other genuine goods that promote the common good, the fact that they do support such polices must enter into one's prudential judgment about whether to vote for them. Nonetheless, the teachings of the Church on such things as health care, the death penalty, war, economic development, and so on are no less grounded in principles referring to our ultimate *telos* than are the teachings on abortion, euthanasia, torture, and so on. So, if we are not to try to persuade our fellow citizens in our pluralistic democracy about these latter truths because of their relation to that *telos*, so equally, it seems, we ought not to try to persuade our fellow citizens about the former truths. On the contrary, the promotion of both sets of truths requires argumentative skills in a pluralistic democracy that will likely not appeal to that ultimate *telos*. After all, one's opponents in such civic argument, if they hope for success, will most likely not make any

more reference to their own ultimate visions of human nature and destiny. And yet, they will continue to try to persuade on the matter at hand, looking for points of agreement. Those points of agreement may be more or less available to the participants depending upon the matter at hand. But the difficulty of persuasion is no warrant for failure to engage in it. That is, in part, precisely what it means to live in a pluralistic democracy, crafting our lives together.

Now it is part of the long moral tradition of the Church that while one may never do evil, one may tolerate it. Thus, it is conceivable that one might make a prudential judgment to vote for a particular candidate who promotes an evil policy, because one is tolerating the evil of the policy. However, one may only tolerate an evil for fear of a proportionately greater evil occurring if one acts against the immediate evil. But this is where the distinctions I drew among the teachings of the Church are relevant, between those that concern evils that are never to be done and those that pursue goods and require prudential judgments as to when they should be done. One cannot simply say that prudence is involved in judgments about voting but then not actually look at the nature of the policies a candidate advocates when one decides to tolerate the candidate's promotion of abortion, euthanasia, or torture. Support for laws or policies in favor of the death penalty, limiting welfare, and so on does not involve the toleration of evil policies as such. If one is faced with a candidate who wants to limit welfare in a fashion that one disagrees with, one does not have to ask oneself whether in voting for him or her one needs to tolerate the evil involved in that policy for fear of a proportionately greater evil. The policy may be wrong because it is ineffective in promoting the common good. But it is not an evil policy as such. So, the toleration of evil principle does not even come into play here in the pursuit of those goods. One simply has to ask oneself whether such policies will effectively promote the common good or not.

On the other hand, support for laws or policies in favor of legal abortion, euthanasia, or torture does involve the support of evil policies as such. Political prudence in a pluralistic democracy like ours may indeed allow that, for a proportionate reason, we should tolerate such things while we work gradually to eliminate them, because we fear a greater evil if we do not tolerate them. But the fact is that in practice we do not hear much call from Catholic opinion makers and politicians to the effect that we ought to tolerate torture for the sake of our democratic pluralism. We used to hear that about slavery, but no more. Why then abortion? Indeed, given the fundamental and unique importance of the protection of innocent human life to the pursuit of goods such as welfare, health care, just wages, economic development, education, and all the other goods of human life, it is very difficult to see just what proportionate reason might be involved in the toleration of pro-abortion policies. The protection of innocent human life is so fundamental to the common good that presumably the burden of proof

lies with the one who would tolerate the promotion of an evil policy legitimating the destruction of innocent human life rather than with the one who would not so tolerate it, unless, that is, one's moral and political reflection is little more than a utilitarian calculus of "values" that does not reflect the significant distinctions in the Church's teaching on these matters.

Finally, one must be ever mindful of the fact that the toleration of an evil purportedly for a proportionate reason very often becomes little more than actual complicity in it. Toleration here and now of the status of abortion in our country does not require complacency and inaction to do what one can to eliminate it, perhaps only gradually. A sign of political complicity is that, in the name of toleration, one does nothing at all to eliminate it in even gradual steps, and one never challenges or holds accountable those who actually promote it. Certainly toleration does not mean soliciting and accepting money from those lobbies. In addition, toleration does not mean a kind of political autopilot that never challenges and reevaluates one's toleration with an eye toward possibly abandoning it. Precisely because it is evil that one is tolerating, one must be ever vigilant and constantly reevaluate whether one's toleration is in fact the best course of action or is now no longer warranted.

Conclusion

It is revealing to consider with whom, in hindsight, history would judge us to have stood in those times and places where slavery and torture were legally sanctioned—those who opposed those horrors and worked to eliminate them or those who more often than not became complicit in them by their efforts at a utilitarian toleration that in practice traded in favor of more prudential goods against the fundamental abandonment of great masses of human beings to lives of enslavement and torture. Time and again in the Church the "value" of toleration on the part of individual Catholics becomes the fact of complicity undermining the common good, as it did with slavery and the Holocaust.

There is little doubt in my mind that my party, the Democratic Party, has over the last thirty years ceased to simply tolerate our culture of abortion and has become actually complicit in it, particularly at the national level. Let us be honest with ourselves. In practice, the first objection that "prudence" is a way of not pursuing the goods of social justice rings a little hollow if we consider the last thirty years with open eyes. We have not seen in the name of prudence a mad rush of Catholics to abandon the goods of health care, just wages, education, and so on. Indeed, it is worth considering the fact that the Catholic Church is the single largest provider of social services in this country after the federal government; it is simply an ignorant canard to suggest that Catholics only care for their fellow human beings before they are born. One does not often hear Catholic Democrats

saying, "I am personally in favor of welfare, but who am I to impose my private religious beliefs upon a pluralistic society such as ours?" On the contrary, what we have seen is the abandonment of the innocent unborn by many Catholics in positions of leadership. I still vote for Democrats whenever my political prudence judges that I can promote the common good by doing so. I would like to be a Catholic committed to the seamless garment. But that garment must be woven with loving hands from the genuine teaching of the Church, not bought from the lowest common denominator thrift stores that are so often our two parties. The protection of the lives of the innocent from womb to tomb is not simply one pattern among many in the weave of the seamless garment; if that garment is to be a vibrant, sturdy, and robust covering, absolute commitment to the inviolability of the lives of the innocent must be the thread out of which it is woven; if, that is, it is to be a garment of which we can honestly say, "We should not tear it."[39]

39. *John* 19:24 (New Am. Stand.).

ARTICLE

CAN THE SEAMLESS GARMENT BE SEWN? THE FUTURE OF PRO-LIFE PROGRESSIVISM

KEVIN DOYLE*

Thank you very much. It's a pleasure to be here. I'll be honest and tell you that initially I had some concern that this would be an exclusively Catholic affair—sometimes I think we can be a little bit ingrown. I was therefore greatly relieved to see at lunch that the pasta and chicken dish was polished. (I hope my charitable assumptions, this Lenten Friday, are well-founded.)

I want to give you six tactical and strategic imperatives for advancing a consistent pro-life agenda. It's more than a laundry list, but not quite a seamless garment. I aim to be practical, and, perhaps, a little culturally critical, at the same time.

1. Don't burn your bridges, but make damn sure you char them.

It's easy to tell people what they want to hear, right? To tell them that they are right, to repeat to them what you are agreed on, so they can feel good about themselves and their convictions. It's a harder thing to challenge people—one-on-one or in larger conversations—and contradict their beliefs, provoke them, and make them actually think (not always a pleasant exercise). But nothing is going to change if we are always nice and never provocative. As Sondheim says, "Nice is different than good." There certainly won't be any major cultural or political realignments if we will not risk straining existing channels of communication.

I think we can look back to see people who didn't burn their bridges in communication, but certainly scorched them. A most striking example of

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this is Mother Teresa, who at a Washington prayer breakfast, with Bill and Hillary Clinton sitting there, had the courage to talk in the starkest terms about what it means for a country when parents are allowed to kill their children through the first six months of pregnancy. Surely, the discomfort quotient was high at that moment, but not as high as the courage quotient.

When I was on Wall Street in the 1980s, taking my "financial sabbatical" from public interest law, I went to a Christmas lunch where Cardinal O'Connor spoke. Basically, the crowd was a bunch of fat-fannied white people who wanted to hear about Santa Claus and poinsettias. O'Connor got up there, much to his credit, and talked about caring for AIDS patients. That was not something people wanted to hear much about back then.

O'Connor went on to defend his having gone to bat for a group of young men of color who were accused of what was, at the time, portrayed as the crime of the century: the Central Park Jogger case, in which some innocent young white women had been set upon and terribly injured. The case caused Donald Trump to take out a full-page ad, demanding the death penalty's restoration. O'Connor defended his reaching out to those defendant families and being supportive of them. (A little footnote here: all of those young men were eventually convicted, and more recently all of them were exonerated. It turns out the Cardinal had backed the right horses.)

So, the point is to say what others might not want to hear. When that's not happening, it's more than just an omission; I think it creates a sad and palpable void.

Several years ago I was out in California and Sister Helen Prejean—and, let me be clear about this, she is a fabulous Catholic voice, a woman of tremendous courage, and a heck of storyteller—but she, Sr. Helen, was addressing a group of defense lawyers. Big audience; five times the number here. And for those who don't know much about defense lawyers, let me tell you they are (we are) a pretty secular, raw bunch—there aren't a great deal of them getting up early in the morning to squeeze in a Rosary or make it to shul.

Anyway, Sr. Helen was talking about capital punishment and went into a litany on the consistent life ethic. She rang many bells: the need for more health insurance, our obligations toward immigrants, mercy for the imprisoned . . . bam, bam, bam. But she left out the unborn. And, I mean, this crowd needed to hear about abortion's ethical dimensions, even if without reference to a particular approach to the law.

I don't think it was a deliberate exclusion on Sr. Helen's part. In fact, she had to leave the conference early because a very close member of her community was ill and coming to the last days of her life. I think Sr. Helen just dropped a stitch in her remarks. But I tell you that if you see the need to advance the consistent life ethic, a missed opportunity like that has a lamentable echo.

With that said, in my remaining fifteen minutes, I promise you I am going to displease, alienate, and provoke every one of you at some point.

2. *Don't make the best of the enemy the good.*

There are some defense lawyers who refuse to participate in the death penalty at all. They refuse to dirty their hands; they believe that by participating they may lend some legitimacy to it. One law professor at Vermont Law School has written from this perspective, even though he has done capital defense work himself. But those people are a minority. There is a much, much larger group of people who are very inspiring—Michael O'Connor and Celia Rumman among them—and they will go into appellate courts and trial courts, and they will save lives. And, yes, they practice the virtue of justice, but they also practice temperance, fortitude, and prudence; they engage in prudential judgments. They get down to the nitty-gritty, sacrifice financially, and save defendants from the immoral practice of the death penalty.

I think there is a similar challenge for all those concerned about the unborn. We too are called to be "innocent as doves but cunning as serpents," to borrow a phrase. Some of the implications of this are obvious: We have to advance positive agendas, such as pre-natal care, adoption, etc. We have to do that. Such things are ends in themselves and means to reduce the number of abortions.

More controversially, I think those concerned about the unborn have to begin to discuss—I use that word, "discuss"—whether or not our law should incorporate distinctions based on gestational stages. I doubt very much that I am the only pro-lifer who is far, far more troubled by surgical abortion occurring in the first, second, or third month than I am when an abortifacient prevents implantation or causes detachment from the uterus. I don't think that I am. I think we need to discuss and explore the implications of this reaction.

If you're repulsed by that, I would hope that you might do three things. First, read the *Gospel of Life Encyclical*, particularly if you're coming from a Roman Catholic perspective. Read what it says about legislative compromise to lessen the evils of abortion.

Secondly, read several times its discussion of the conceptus at the earliest stage. It clearly sets out the ideal of legal protections from fertilization on. But it also acknowledges a long tradition of philosophical discourse over the moment of ensoulment. So, meditate on that. Meditate on what is said and what is not said in the encyclical.

Above all, ask yourself, if you're shy about making these distinctions and translating them into law, ask yourself whether or not maybe you're wrong. Think about the possibility that a person is not present early on in the gestational process, but only comes into being later on, for instance,

with the advent of brain structure or brain activity. Imagine, for a second, that being a moral fact. And then ask whether, by compromising on early-stage, nonhomicidal abortions, we might not greatly reduce the number of later-term abortions—abortions that more certainly represent the death of a human person. Think about that.

I don't say any of this lightly. I think these are very difficult questions, but questions with which we must wrestle.

3. Seize the moral high ground on the question of women's autonomy.

The pro-choice camp has gotten a lot of mileage out of the slogans and mantras about women controlling their own bodies. The truth is that the greatest threat to women's control over their own bodies today is not parental notification; it's not less public funding for abortions; it's not conservative nominees to the bench. The greatest threat to women's autonomy is our culture and the way it has debased and hollowed sexuality. The way it has—to draw from Andrea Dworkin through Maggie Gallagher—made sex something that occurs among bodies, not between persons. The way it has compromised, rather than reinforced, choice and consent.

We are way beyond the saturation point with images and messages of titillation and provocation. I do not say this prudishly. There is really no literature I won't read, no film or cable program I won't watch, if it is fundamentally worthwhile. As far as I am concerned, Paul Thomas Anderson's film *Boogie Nights* powerfully rebutted a purely consent-based morality, and a *Sopranos* plot that was centered on Uncle Junior's sexual practices provided a great window into odd macho sensibilities. But let's step back: Out-and-out pornography is now a multibillion-dollar industry. A computer geek friend tells me it constitutes a huge portion of the total Internet traffic. And it's not just the rawest, most explicit stuff.

Beginning at least as far back as the 1970s, the women's movement, very commendably, condemned the use of women's body images to sell products. But the truth is that now—more than thirty years later—it's cheesecake, tits and ass, boobs and booty that serve, to an unprecedented degree, to lubricate the wheels of commerce. Of course, we are all acclimated to it. But go back on microfilm and look at the images in newspapers and magazines then and now. We are in an upside-down world, one that spouts feminist pretensions but panders to male voyeuristic sensibilities with a constant stream of visual Viagra.

This has all contributed to create a Hostile Life Environment—a distorting coercive atmosphere akin to the Hostile Work Environment, except that a woman cannot clock out of it.

In the *Times* a while ago, there was an article exploring social clubs from the perspective of the young women who check the coats. One told the reporter that sometimes people came to her for advice. There was a

woman who came to her and said she had just met a man in the bar. She was going to go home with him, but she was embarrassed because she hadn't shaved her legs very recently. That's what she was embarrassed about!

Don't judge her (or her new friend). And certainly don't yearn for the days when women who fell beneath a mechanical standard of virtue were branded as sluts, while we boys were pre-forgiven our randiness.

But do ask whether our brave new porntopia, our sex-on-tap world is really a freer place for women. Is there really more genuine choice for women in our current pressurized ethos, a conscriptive ethos keyed overwhelmingly to men's sexual rhythms, expectations, and entitlements?

Mark O'Connell of the Harvard Medical School recently wrote an article for the *Boston Globe* about what he called "the epidemic of meaningless teen sex," an epidemic born of a culture in which ubiquitous "images convey a sexuality that is more virtual than real, more impersonal than personal, more available on demand than negotiated by consent . . . emphasizing superficial pleasure over the deeper and more enduring meanings of intimacy, tenderness, connection, and even procreation."[1] He said, among teens, this

> new sexuality is deeply symptomatic. Emotional deadness, disengagement, and constriction are increasingly the norm. (Oral sex is, after all, "just something to do.") "Sexual addiction," our term for moving from sexual experience to sexual experience without ever being satisfied, is prevalent. Meanwhile, for many kids, precocious sexuality represents not freedom and experimentation but is a byproduct [sic] frequently seen with sexual trauma: compulsively driven activity that both expresses and aims to manage the effects of chronic intrusion and overstimulation. . . . To speak of "consent" under these circumstances is at best naive.[2]

Equally naive, to be clear, is any belief that this casual sex is not overwhelmingly centered on gratification of the boy, not the girl. My wife and I have two friends who are school nurses in diverse settings; they could not be clearer about this.

Roughly a hundred and fifty years ago, Elizabeth Cady Stanton, in a letter to Susan B. Anthony, asserted, "Man in his lust has regulated long enough this whole question of sexual intercourse. Now let the mother of mankind, whose prerogative it is to set bounds to his indulgence, rouse up and give this whole matter a thorough, fearless examination." That is not what has happened. We as pro-lifers—as parents, aunts, uncles, and grandparents, as friends, as citizens—have to face up to that.

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1. Mark O'Connell, *The Epidemic of Meaningless Teen Sex*, Boston Globe A19 (Mar. 9, 2005).

2. *Id.*

4. Press the international perspective.

With the death penalty, as should be obvious to anyone, the pro-life side has gained a lot of ground by placing America's practices in international perspective. I think it's heavily owing to such perspective that we no longer execute the retarded.[3]

It's owing to such perspective that we will no longer execute juveniles: persons whose crimes were committed when they were under the age of eighteen.[4] I think we must exploit this worldwide perspective in defense of the unborn.

We have to point out that America's abortion laws are among the most lax in the world. We have to point out the history of a place like Germany, where the courts rolled back permissive abortion laws, owing both to "the fundamental inviolability and indisposability of human life" under the constitution and to the horrors Germany perpetrated when, for twelve years, it pretended life was a state-dispensed privilege rather than God-granted gift.

We should recall the 1959 UN Declaration of the Rights of Children. We should remember the insistence on the specific safeguards that were required, including legal protections, before as well as after birth.

5. Defend the Catholic Church.

We also, I think, have to defend the most important institutional pro-life voice in the country: the Catholic Church. Now, when I say defend it, I don't mean shield it from its well-deserved outside criticism. I am a parent of three children, each of whom attends Catholic school and regularly serves Mass. Thanks to my wife's genes, furthermore, none of them is completely hideous. So I'm grateful for the attention being paid to sexual abusers, ordained or otherwise. I'm grateful for the media. (Yes, maybe they should feel a little bit bad for paying so little attention to scandal in the public schools along the same lines; scandal exposed, for instance, in the work of Hofstra University professor Carol Shakeshaft. But that's for another time.)

When I say defend the Church, and defend its pro-life voice, I really mean defend it largely from within. There are two things I think terribly handicap the Church's pro-life voice. One is the needless sexism in our Church. Put aside the question of Holy Orders and women—though I remain curious as to how women, who get the stigmata more often than men, cannot stand in for Christ during Mass. There is no reason theologically why women should not have more power and visibility in our Church. That they don't hobbles us in standing up for the unborn as a Church. It's remarkable Catholicism has done as well as it has in the public square, given how much of an "all-boys club" it appears to be.

3. *Atkins v. Virginia*, 536 U.S. 304 (2002).
4. *Roper v. Simmons*, ___ U.S. ___, 125 S. Ct. 1183 (2005).

The second thing hindering our pro-life witness is our fixation on our own intramural conflicts. A few years ago I was on a panel with Jesuit Robert Drinan. He spoke about Church teaching and the death penalty. But, more than emphasizing the great pro-life truth regarding the immorality of execution in the absence of "absolute necessity," he kept coming back to the death penalty as proof that teachings of the Church indeed change. He seemed almost more excited about that than saving condemned inmates. I don't mean to sound harsh. I admire a lot about Drinan's public career; I recall his mighty opposition to our air war in Indochina. But playing theological gotcha on pro-life issues is just counterproductive.

On the flip side, I was at Fordham some time ago and heard Avery Cardinal Dulles, who I think is America's best theologian, as he writes plain English, is very insightful, and has a great personal history. He gave an address on the death penalty and Catholic teaching, an address in which he never mentioned the language in the Catechism. Never mentioned the standard of "absolute necessity." You would have left that talk without knowing it is the Church's teaching that when you can incapacitate the criminal—when you can make society safe from him without resorting to the death penalty—then you may not resort to the death penalty. That's the Church's teaching. And Cardinal Dulles is against the death penalty personally. He feels, *inter alia*, it's bad policy. But so great was his focus on context and continuity that the current teaching was pretty much drowned out.

6. Know the real enemy.

The last thing, my sixth point, is that we should all know who our greatest enemy is.

As pro-lifers, our greatest enemy is the mass culture. We are out to change hearts and minds. Yet we live in a mass culture that's basically eroding our hearts and our minds. We already touched on the distorted sexuality that's peddled to young people—and to all of us, it's not like we're immune—but let's touch on the levels of media violence that have made us so, so callous.

I recall a story around Thanksgiving on New York's big news station. I climbed out of the shower, listening to the lead-up to it. It was about a woman who cut the limbs off her baby. The hook was: "Stay tuned and hear the 911 call." The story was so sensationalized that several people who heard the full report didn't realize it also said that the baby had died. Because that wasn't the point. The point was the gore and sensationalism. And that was under the guise of journalism. How much worse is the mayhem we imbibe as entertainment? Just read the reviews of films like *Saw* or *Kill Bill* or *Sin City*.

I'm going to make you an offer (I have made it to thousands of people over the past nine years): Buy the book *On Killing* by Dave Grossman.

Read about how we are conditioning our children by entertainment media and video games, conditioning them for violence very much the way the military does to overcome the inborn human aversion to intra-species killing. Buy it and read it. And if you don't believe the book is worth it, send it to me and I'll give you your money back.

We are in rough, rough shape. Putting aside violence, there is reality TV. It's all about humiliation and manipulation. And you know, catch kids young enough and they realize that. I was explaining to my kids why they shouldn't watch this stuff. I said people on these shows are like dogs in the corner being poked with a stick. My kids instantly knew what I meant.

So, we have to stand up for the human heart. And we have to rescue the human mind.

We are in a mindless time. In 1961, Kurt Vonnegut wrote a short story in which egalitarian excesses had led to an America that maintained an Office of United States Handicapper General, who ensured we were all of equal abilities. If you were very pretty, you wore a mandated mask; if you were too athletic, you wore something that hobbled you; if you were too bright, you wore a contraption that emitted noises to interrupt your thinking.

The good news is that today intelligent people are not singled out in this fashion. The bad news is that our culture subjects us all to such mental handicapping.

We're overloaded with images and noise. You know this when you're sitting in the airport and you can't read because CNN is blaring; you know it when you're in an elevator and there is a small video screen running ads; when you use a pay phone or a cell phone and that little recorded commercial is slipped in before your call goes through; when you are supermarket shopping and you look down on the floor to see giant brand name decals.

We are taking in too much. Our critical faculties are dulled, our powers of discernment numbed. A war of attrition is being waged on human consciousness and human consciousness is losing.

The results are all too plain:

We are more concerned about what happened to Dan Rather this week, as penalty for a misleading news story, than we are over Cheney and Rice's misleading us into a war, a betrayal partly conceded by Bush's CIA director under oath and otherwise obvious from the secretary of state's evasions during her Senate confirmation.

While reconstructive surgery is beyond the reach of hundreds of injured and deformed children in neighboring countries, MTV has hit the nadir of celebrity-worship with *I Want a Famous Face*, a program in which young people undergo plastic surgery to resemble stars.

We talk about equal opportunity while the federal estate tax wanes and wealth becomes ever more concentrated. Listening to Anger Radio one would think that the notion of distributive justice is the exclusive province

of Marx and Mao. Indeed, how many Catholic pro-lifers mistake the market for a god rather than a guide and tool?

Most Americans could tell you more about the conditions of Martha Stewart's house arrest than the prevalence of sexual assault in our prisons. Half-baked anecdotes and historical caricature drive important policy debates in areas such as tort reform and energy conservation.

Our very ability to reason morally has turned to mush. During the Lewinsky-Starr circus, infidelity, which at one time would have been a cultural disqualifier for an official, became a political, if not legal, defense to perjury. I mean you can't expect a guy to tell the truth when he is cheating on his wife.

In the wake of the horrendous scandal at Abu Ghraib—a scandal the most clever enemy propagandist could not have dreamt up—President Bush offers to demolish the site of the horrors, as if the building itself were to blame. Wah?

The pro-lifer thus can aim to win over hearts and minds. But first she may have to restore them to their rightful owners.

Now I trust I've said at least one thing that would offend each of you, and I thank you.

ARTICLE

THE COHERENCE AND IMPORTANCE OF PRO-LIFE PROGRESSIVISM

MARK A. SARGENT*

Many would say that the subject of today's conference is a bit silly. The phrase "pro-life progressivism," they would argue, is an oxymoron, a self-contradiction borne out by four apparently self-evident propositions:

- The pro-life position on abortion is not a progressive or liberal one; it clashes with foundational progressive or liberal[1] values, particularly with regard to women.
- There is no place for the pro-life position in the Democratic Party, the only home for what is left of the progressive or liberal tradition.
- The pro-life position is tainted by a religiosity that should be irrelevant to law and policymaking in a secular state.
- The number of people who would identify themselves as both "pro-life" and "liberal" is very small, hence neither culturally nor politically significant.

If all of that were true, or if it were the end of the story, then we would not have much to do today other than to talk about how we got into this situation, or to wring our hands about our irrelevance.

Many of the speakers at this conference would not be here, however, if we believed that those four propositions were really self-evident, and that linking "pro-life" and "progressivism" necessarily created a contradiction in terms. In fact, I assume that most of us believe that a pro-life position on abortion can be accommodated within a framework of liberal values, and that there can be a place within liberal politics for such a pro-life position.

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1. When I use the term "liberal" in this paper, I am using it in the narrow sense in which it is usually employed in American politics, i.e., as a description of the political tradition extending from early twentieth century progressivism through Franklin Delano Roosevelt, the Kennedys, and what is now the left wing of the Democratic Party. I do not mean to include the nineteenth century tradition of economic liberalism still alive in the twenty-first century. I will also use the terms "liberal" or "progressive" interchangeably in this paper, while recognizing that each word has a different historical pedigree, and can mean different things in different contexts.

Moreover, most of us probably believe that arguments derived from religious faith do have a place in public debate and decision making, and that the number of people who hold both pro-life and liberal or progressive positions may not be insignificant, and that they may be capable of mobilization. The premise of many of us here today thus would seem to be that the idea of pro-life progressivism is plausible, complex, and certainly worth discussing.

The idea's complexity arises from the need to resolve at least two fundamental problems: First, can we construct an intellectually coherent way of linking a pro-life position on abortion to traditionally liberal or progressive positions on other issues, or "social justice" in general? By "coherent," I mean coherent from the standpoint of both liberal and Catholic thought. Second, why have attempts at linkage of these issues—particularly the articulation of the consistent ethic of life[2]—had so little cultural and political influence, while the separation of abortion from these issues has had such resonance culturally and politically? In other words, can pro-life progressivism be important?

This essay will offer some reflections on these two questions, and offer conclusions that are at least hopeful, if not optimistic.

I. Is "Pro-Life Progressivism" Coherent?

Is the phrase "pro-life progressivism" a contradiction in terms? Some would think so. When I tell my friends on the left that I am a pro-life liberal, they look at me as if I were insane. To them it is a bit like a Red Sox fan claiming that his favorite player is Derek Jeter. Similarly, when I explain some of my other social and political views to my pro-life friends, they look at me as if I were some kind of mole planted by the American Civil Liberties Union. My friends on both sides possess world views in which only one position on the incandescent issue of abortion is possible, and transgressions of their expectations produce only bewilderment. The ideas (and values) just don't seem to fit together.

But *can* they fit together? Let's first talk about this question in purely secular terms, from the perspective of progressive thought. One could articulate a left-leaning argument that links abortion to central progressive concerns about victimization of the powerless or less powerful: a capital punishment regime that disproportionately harms minorities, a health care system that leaves the working poor without insurance coverage, a social security system inadequate for many elderly, environmental practices with

2. By the "consistent ethic of life" I refer to the concept primarily associated with Cardinal Joseph Bernardin, who also used the metaphor of the Seamless Garment of Life. Cardinal Bernardin articulated the concept in many speeches throughout the 1980s. His most precise statement of the concept is perhaps Joseph L. Bernardin, *Consistent Ethic of Life*, in *The Catholic Church, Morality and Politics* 160 (Charles E. Curran & Leslie Griffin eds., Readings in Moral Theology No. 12, Paulist Press 2001).

disproportionate impact on the poor and minorities, and so on. Why cannot the unborn simply be added to this list of the oppressed for which the Left would demand justice? The problem, of course, is that for most on the left, the "victim" in this context is not the aborted unborn, but the woman deprived of her right of choice by restrictive abortion laws, and hence subordinated and oppressed by a legal regime reflecting and reproducing patriarchal authority. In this view, criminalization of abortion cannot be squared with the Left's commitment to the dignity and equality of women.

This disagreement over whose dignity needs to be protected leads naturally to the familiar arguments over the personhood of the embryo or fetus and, assuming its personhood, the nature of the mother's moral and legal obligations to that person. I will not try to resolve these arguments here, but will posit for purposes of discussion a minimalist position: that the fetus possesses at least some attributes of personhood. Once that is assumed, the Left's typically absolutist pro-choice position on abortion is inconsistent with its own commitment to social responsibility and justice for *all.* A genuinely leftist position on abortion would insist on protection of *both* the mother and the unborn, despite the metaphysical uncertainty about when life and personhood definitively begin. A commitment to equal justice would mean life for the child and a social safety net for the mother. Only that kind of support for women truly respects the mother's dignity as a woman by helping her avoid the moral tragedy of abortion.[3] The Left should not join its libertarian foes by defining the abortion issue purely as a matter of preserving individual autonomy.[4] The Left also need not assume that a pro-life critique of choice as the paramount value necessarily

3. For an excellent discussion of the possibilities of connection between Catholic and feminist thought (which has its own conflicted relationship with liberalism) regarding abortion, see Mary C. Segers, *Feminism, Liberalism, and Catholicism*:

> While liberal feminists support the legality of abortion, many have moral reservations about the high incidence of abortion in the United States. Nevertheless, for these feminists, the way to reduce the incidence of abortion is not to burden or coerce involuntarily pregnant women but to press for reform policies to create alternatives for such women. This sounds remarkably similar to what some Catholic pro-lifers are currently doing regarding abortion policy in the United States—educating public opinion and sponsoring programs which offer alternatives to abortion for involuntarily pregnant women. This is not to minimize basic differences between Catholics and feminists concerning the moral status of fetal life and the primacy of women's autonomy. Rather, it is simply to point out possible areas of agreement and cooperation between these two groups at least with respect to public policies to assist women.

In *Catholicism and Liberalism* 242, 263–64 (R. Bruce Douglass & David Hollenbach eds., Cambridge U. Press 1994).

4. For a similar argument invoking the value of solidarity, which is shared by both Catholic social teaching and the Left, see M. Cathleen Kaveny, *How Views of Law Influence the Pro-Life Movement*:

> The fundamental challenge facing the pro-life movement is to help the American people expand beyond rights talk and move toward the virtue of solidarity—solidarity with the unborn, solidarity with others who are vulnerable, solidarity with those upon whom these most vulnerable depend.

34 Origins 560, 560 (Feb. 17, 2005).

presumes a view of womanhood that is anti-feminist and defines a woman's value solely in terms of motherhood. So my conclusion is that pro-life progressivism not only makes perfect sense from a secular liberal perspective, but is more true to its core values than at least the extreme pro-choice position.

Does pro-life progressivism make sense from a Catholic perspective? Here the argument is not with secular proponents of choice, but with Catholics who share a pro-life position on abortion but who do not believe that Catholic teaching mandates, supports, or even allows adherence to "progressive" positions on other social issues. This argument about what our faith commands, or over which is the truly Catholic position, is multifaceted and usually focuses on the meaning of the consistent ethic of life. Some may argue that the ethic is a flawed concept in and of itself. Others may argue that the ethic is valid, but that it has been distorted in its application by political opportunists on the left. Whichever of these starting points is used, however, the critique usually makes the following three points:[5]

- The consistent ethic of life (or a politicized version of the ethic) presumes a false equivalence between the non-negotiable, intrinsic evil of abortion and those other social, political, and economic issues about which persons of faith committed to the value of life may have prudential disagreements. Politically, it allows Catholics, and particularly Catholic politicians, to be "soft" on abortion because of their correct position on the other issues.
- With respect to the issues other than abortion, a wide variety of prudential positions is possible within the consistent ethic of life; such disagreements represent simply arguments over means, not the principle of life. Catholic teaching does not command obedience in this context, except with respect to the intrinsic evil of abortion.
- Linking the non-negotiable issue of abortion to certain economic, political, and social positions is a way of smuggling a secular, statist ideological agenda into religious doctrine, literally "sanctifying" that agenda in an unacceptable way.

I respond to these arguments first by making a basic point: the antithesis between principle (with respect to abortion) and prudence (with respect to everything else) is dramatically overstated. The question of how to deal

5. For a typical critique along these lines, see Michael Pakaluk, *A Cardinal Error: Does the Seamless Garment Make Sense?*, in *The Catholic Church, Morality and Politics*, *supra* n. 2, at 196. For a summary of the critical reaction to Bernardin's proposal, see Michael W. Cuneo, *Life Battles: The Rise of Catholic Militancy within the American Pro-Life Movement*, in *Being Right: Conservative Catholics in America* 270, 290–93 (Mary Jo Weaver & R. Scott Appleby eds., Ind. U. Press 1995) ("To many [pro-life] activists, it seemed that the Cardinal was merely beating a strategic retreat from the anti-abortion position."). For a broader spectrum of views on the consistent ethic of life, see Joseph Cardinal Bernardin et al., *Consistent Ethic of Life* (Thomas G. Feuchtmann ed., Sheed & Ward 1988).

legally and politically with the intrinsic evil of abortion is not just a matter of absolute principle. There are at least some prudential issues to be considered by both citizens and lawmakers as to how the moral evil of abortion is to be handled as a matter of law in a pluralistic democracy. The question of whether and how abortion should be criminalized in a society in which a majority of the people believe that it should be permissible in at least some circumstances is a grave one not capable of easy resolution. Equally grave is the more specific and essentially empirical question of whether overturning *Roe v. Wade*[6] would in fact lead to criminalization of abortion in every state,[7] and whether it would reduce the number of abortions at all. To what extent, furthermore, is a position that concentrates on preventing or limiting abortions of a particular type (such as partial-birth abortion), or in as many circumstances as politically or legally possible, more prudent than universal criminalization? Can one not make the prudential determination that the best way to counter the moral evil of abortion is by reducing the number of abortions through transformation of culture and reduction of the economic incentives to abort rather than through a legal rule widely perceived as illegitimate or unenforceable? These questions all suggest that the legal status of abortion is not purely a matter of principle, but also one of prudence.[8]

Conversely, questions of just war, capital punishment, the amelioration of poverty, and other social issues involve the principle of life in such a way that not all disagreements can be dismissed as merely prudential disagreements or arguments about means. Catholic or Christian values with respect to these problems are not infinitely elastic. Clearly, neither the Gospel nor Catholic social teaching provides exact prescriptions for resolving specific problems of tax policy, international trade, or labor relations, and certainly the institutional Church defers to the judgment of the laity with respect to those questions. But there is a set of core values rooted in the Gospel that tilts the scales toward a view of these questions that cannot be easily assimilated into the capitalist world view or neo-conservative economic ideology.[9]

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6. 410 U.S. 113 (1973).

7. The likely outcomes of a reversal of *Roe* are decidedly mixed. According to the Center for Reproductive Rights, twenty-one states are likely to ban abortion and nine states might, but twenty will not. Center for Reproductive Rights, *What If* Roe *Fell? The State-by-State Consequences of Overturning* Roe v. Wade, http://www.reproductiverights.org/pdf/bo_whatifroefell.pdf (Sept. 2004).

8. For an excellent articulation of this way of thinking about abortion, see John Langan:

> [T]he crucial mistake is the acceptance of a right to abortion. This makes abortion itself either indifferent or morally positive. The essential Catholic affirmation is that abortion is an evil. Whether it is an evil to be forbidden by law or to be discouraged by persuasion is a matter where Catholics, whether they be politicians or citizens, theologians or bishops, may well differ.

John Langan, Speech, *Conscience and Controversy: Twelve Observations about Abortion and Politics* 7 (Washington, D.C., Sept. 16, 2004) (available at http://www.avemarialaw.edu/news/Events/conferences/abortion2.pdf).

9. For a repudiation of the argument that in *Centesimus Annus* Pope John Paul II was converted in that direction, see Charles E. Curran, *Catholic Social Teaching: 1891-Present* 206–09

Indeed, those who would dismiss those aspects of Catholic social teaching that contemplate the possibility of state action for the common good, or to achieve greater solidarity with the poor, or to support subsidiary institutions threatened by unrestrained capitalism, may themselves be inspired more by secular libertarian ideology than the Gospel.[10] Similarly, rejection of the Church's critiques of capital punishment and unjust wars may be more expressive of secular conservative or nationalist ideology than of religious conviction.

The "false equivalence" critique of the consistent ethic of life (or its application) thus itself rests on falsity—the false antithesis of principle and prudence, and the false claim of secular ideological distortion. More important, the critique leaves uncontested the core assumption of the consistent ethic of life: that the Catholic Christian value of life must be primary when we think about how abortion, capital punishment, war, and poverty threaten human dignity. To be sure, the balance of principle and prudence works itself out differently with respect to each of those issues and in the different contexts or situations in which those issues arise. But respect for life is a heavy thumb on the scales for all of them, and not for some more than others. That heavy thumb does not allow disregard for the value of life even when the potential victim is a repulsive murderer or a threatening enemy rather than the innocent unborn. The ethic of life disrupts all of our careful, technical, prudential calculations of economic policy by bearing witness to the reality that our calculations can mean life or death for the poor, and by reminding us that we cannot forget them or be indifferent to their fates. That indifference cannot be disguised by claiming that all we have before us is a principled disagreement over the best way to help the poor, resolve an international crisis, or punish the guilty.

Does the consistent ethic of life mean that Catholics must adopt every position on social, economic, and foreign policy propounded by the left wing of the Democratic Party (except on abortion)? Of course not. The interplay of prudence and principle can produce different conclusions on different issues. More important, our starting points are different. The Catholic ethic of life expresses a vision of the common good based on an anthropology very different from the liberal vision of the autonomous bearer of rights. But the consistent ethic of life and liberal politics can

(Georgetown U. Press 2002); David Hollenbach, *The Pope and Capitalism*, America 591 (June 1, 1991).

10. Michael Novak has argued assiduously, however, that the concept of "social justice" usually leads to socialist or "statist" politics or economic policies undermining the freedom of individuals in a way that is inconsistent with the common good as well as with Christian principles. For an example of Novak's criticism of the concept of "social justice" (as it is frequently used in Catholic social teaching), relying primarily on Friedrich Hayek, see Michael Novak, *Defining Social Justice*, First Things 11 (Dec. 2000). For a response to Novak, see Mark A. Sargent, *Competing Visions of the Corporation in Catholic Social Thought*, 1 J. Catholic Soc. Thought 561, 574–81, 588–93 (2004).

converge, albeit from different starting points, on many positions, including opposition to capital punishment, enlistment of the state (especially tax policy) in the struggle against poverty, and the rigorous application of just war policy. That point of convergence may very well be called "pro-life progressivism."

II. Can Pro-Life Progressivism Be Important Culturally and Politically?

These days, the notion of a convergence of a religious movement and progressive politics seems more absurd than ever. If we define "religion" as conservative evangelicism or Catholicism, and "liberal" as the left wing of the Democratic Party, it is pretty clear that the two do not have a future together, and that pro-life progressivism is not likely to become important culturally or politically. The meanings of "religion" and "liberal," however, are more complicated than the current political alignment suggests, particularly in their relationship to each other, and that complexity deserves exploration. Once that complexity is understood, we will be able to see that there are possibilities for dialogue and convergence.

A. The Complex Relationship of Faith and Liberalism

We should start by acknowledging that the world view of the liberal tradition, including modern rights-based lifestyle liberalism, has usually defined itself *against* the religious world view:[11]

- Epistemologically, liberalism expresses a principled skepticism about—or even hostility to—the truth claims at the heart of any religion, being more than slightly queasy about such unreasonable and potentially threatening claims;
- Morally, liberalism embodies, or at least tends toward and tolerates a substantial degree of moral relativism, thereby conflicting with religious traditions confident in their ability to define the good;
- Anthropologically, liberalism is built around a highly individualistic, rights-centered conception of the autonomous human person that is in tension with the religious vision of the human person as *created*, as a creature of God, whose freedom exists to serve God;
- Liberalism understands human sexuality primarily within the framework of autonomy and rights, in contrast to the religious world view for which the matter is complicated by the need to reconcile the claims of flesh and spirit, the ethics of non-exploitation and non-instrumentalization of other persons, and the possibilities of sin and transgression;

11. For a useful analysis of liberalism's adversarial posture toward religion, see Stephen L. Carter, *Liberalism's Religion Problems*, First Things 21 (Mar. 2002).

- Liberalism would exclude faith-based discourse from the public square, because religious reasons cannot be public reasons.[12]

It is no wonder that for much of its history, liberalism has defined religion (and in particular Catholicism) as its antithesis and enemy. So it is also no wonder that Catholicism has often defined itself against liberalism.[13] What is more surprising is how often liberalism and religion have *not* functioned as antitheses, but have converged in mass political movements.

American history has several important instances of religious voices providing critical moral and political support for positions or causes usually defined as "liberal":

- The anti-slavery movement (rooted in evangelical Christianity);
- The civil rights movement (the "Letter from Birmingham Jail"[14] is a profoundly religious document rooted in the Gospel);
- The labor movement (this extends from *Rerum Novarum*[15] to the "labor priests"[16] and beyond; picture Karl Malden being lifted out of the hold of the ship in *On the Waterfront* where he delivered his homily on the "crucifixion" of the longshoreman Kayo Dugan);[17]

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12. For an excellent critique of this proposition, and citations to the relevant literature affirming that proposition, see Michael J. Perry, *Under God? Religious Faith and Liberal Democracy* 35-52 (Cambridge U. Press 2003). *See also* Carter, *supra* n. 11, at 27-28 (criticizing the argument that religious citizens "must remake themselves before joining the debate").

13. For discussion of the origins and development of this tendency, see Peter Steinfels, *The Failed Encounter: The Catholic Church and Liberalism in the Nineteenth Century*, in Douglass & Hollenbach, *supra* n. 3, at 19. This tendency was exacerbated by the rise of the religious right, making liberalism and liberals "implacably hostile to religion." As E. J. Dionne has put it succinctly:

> The greatest victory of the religious right is *not* its success in turning out the vote of religious conservatives. The Christian Right has damaged liberalism by calling forth a liberal reaction against religion's public role. . . . Confronted with a new religious right from the 1970s on, many liberals were at least as eager to attach the "religious" as to turn back the "right."

E. J. Dionne, Jr., *Faith Full*, New Republic 12 (Feb. 2005).

14. Martin Luther King, Jr., *Letter From Birmingham Jail* (The Overbrook Press 1968). For detailed analysis of the religious elements of the civil rights movement, see David Chappell, *Stone of Hope: Prophetic Religion and the Death of Jim Crow* (U. N.C. Press 2004).

15. Pope Leo XIII, *Rerum Novarum* (1891), reprinted in *Catholic Social Thought: The Documentary Heritage* (David J. O'Brien & Thomas A. Shannon eds., Orbis Books 1992).

16. On the relationship of the Catholic Church and the labor unions in the United States in the twentieth century, see Charles R. Morris, *American Catholic: The Saints and Sinners Who Built America's Most Powerful Church* 209-21 (Times Books 1997).

17. Malden's labor priest tells the longshoremen surrounding Dugan's body: "Christ is in the shape-up . . . Christ works on a pier . . . Christ goes to a union meeting and sees how few go." *On The Waterfront* (Columbia 1954) (motion picture).

- The economic policies of the New Deal (recall Monsignor John A. Ryan, "The Right Reverend New Dealer");[18]
- The anti-war movement (remember William Sloan Coffin and the Berrigans);
- The anti-poverty movement (Catholic social teaching was an inspiration to Michael Harrington[19] and many other anti-poverty activists).

In all these instances, a conception of human dignity grounded in the sacred converged with, or at least paralleled the evolving secular liberal tradition of human dignity. This convergence, furthermore, has often been crucial to the success of the political movement, with genuine political change depending on the moral force of religious belief. One can imagine, therefore, a new progressivism animated and energized by the consistent ethic of life. This, however, is easier said than done. Moments of convergence between religion and liberal politics often have been unstable and dependent on the impermanent confluence of other social and political factors such as class interests and racial conflict. Those factors also can explain why the consistent ethic of life has had so little resonance.

Consider, for example, the Catholic/liberal convergence from the 1930s and into the 1960s. The Democrats could count on sizeable majorities of white, ethnic, working class Catholic voters because the economic and social policies of the New Deal and its progeny were consistent with their class interest, with their self-identification with the poor (despite their own social and economic ambitions), their pro-labor orientation, and the communitarian, somewhat anti-capitalist tradition of Catholic social thought.[20] Democrats look back wistfully upon that moment when they think about the Catholic vote. But that moment is really gone, for one reason that has little to do with religion and another that has everything to do with it. The first reason was the Republican Party's enormous success in forging an iron link between race and taxes—i.e., paying high taxes came to mean spending money on undeserving and threatening black people—that began with Richard Nixon and culminated in the reigns of Ronald Reagan and the first President Bush, and tore white ethnic Catholics, now largely middle class or at least lower-middle class, away from the Democratic Party and its tax-and-spend, race-coddling liberals.

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18. On Ryan and his legacy, see *Religion and Public Life: The Legacy of Monsignor John A. Ryan* (Robert G. Kennedy et al. eds., U. Press of Am. 2001).

19. Michael Harrington, the author of the influential *The Other America: Poverty in the United States* (Penguin Books 1962), eventually left the Catholic Church and became a secular socialist, but his formative time as an activist was as a member of Dorothy Day's Catholic Worker Movement.

20. For discussion of the complexities of this relationship in the first half of the twentieth century, culminating in the New Deal *rapprochement*, see John T. McGreevy, *Catholicism and American Freedom: A History* 126-165 (W.W. Norton & Co. 2003).

The second reason, however, has everything to do with religion, or more precisely, religion and sex. While the political battles in the 1950s over contraception, in which the Catholic Church engaged vigorously,[21] suggested that a potential fissure between liberals and Catholics was growing, the differences between liberals and Catholics about sex were not very threatening to their New Deal convergence on economic issues.[22] After the sexual revolution of the 1960s and *Roe v. Wade*,[23] however, the differences over human sexuality, whether it was in the form of abortion, homosexual rights or the pervasive sexual imagery in the media, contributed to a culture war that lingers today, driving a wedge between liberals and the institutional Catholic Church, many Catholics, and most evangelicals. The religious voice in politics thus came to be dominated by conservative religious voices, who co-opted the language of faith, values, and life, and made it appear that there were no other religious voices in politics.[24] The Republican Party seized upon and exploited this development, increasingly presenting itself as the only possible home for religious people, and the Democrats played into their hands, at least in presidential politics, by adopting an extreme position on choice that is at least as non-negotiable as the strongest Catholic position against abortion.

B. The Possibilities of a New Convergence

It is thus not surprising that religion began to play a diminishing role in liberal/progressive politics. But can that trend be reversed by the development of pro-life progressivism? Here is where we need to think about what we mean by "religion." A couple of years ago I attended the annual luncheon of the Saint Thomas More Society of Philadelphia,[25] a wonderful group of Catholic lawyers on whose board I serve. The speaker was a well-known conservative Catholic public intellectual, who argued, in essence, that the only possible political home for the faithful Catholic was the Republican Party, largely because the Democrats had categorically excluded pro-life voices on abortion. Amid the general assent, a brave priest who spends a lot of time working with the many immigrants and farmworkers in the Philadelphia Archdiocese, raised his hand and asked whether the Republican

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21. On the battles over contraception, see McGreevy, *id.* at 157–62, 216–49.

22. *See id.* at 163 ("Until the late 1930s tension between Catholics and liberals on cultural matters seemed manageable.").

23. 410 U.S. 113 (1973).

24. This co-optation is as much the result of the changing nature of liberalism since the 1960s. As Peter Steinfels has pointed out:

> American liberalism has shifted its passion from issues of economic deprivation and concentration of power to issues of gender, sexuality and personal choice. . . . Once trade unionism, regulation of the market and various welfare measures were the litmus tests of secular liberalism. Later, desegregation and racial justice were the litmus tests. Today the litmus test is abortion.

Dionne, Jr., *supra* n. 13, at 13.

25. The Society's website can be found at http://www.stmsphl.org.

Party's positions on poverty, war and peace, and capital punishment also reflected a commitment to life. The speaker sneered dismissively and said, "I don't really buy this Seamless Garment of Life thing. It allows so-called Catholics like Ted Kennedy to say that because he's batting .700 on everything else, he gets a pass on abortion." On the way home I thought of the retort I should have made: "What makes you think that you should get a pass on everything else because you are batting .200 on abortion?" but that has to remain in the category of things I wish I said. What I really wish I had said, however, is that the Republican Party does not have an exclusive claim on "the" Catholic perspective, and that the compelling image of the Seamless Garment provides a Catholic inspiration for a very different political vision than that expressed by the speaker that day in Philadelphia.

This little anecdote demonstrates not only the persistence of the disagreement among Catholics about "false equivalence" within the consistent ethic of life, but also the political dilemma of pro-life progressives. If one takes that ethic seriously, and believes that the ethic compels an approach to social justice issues different from that of the Republican Party, and an approach to abortion different from that of the Democratic Party, one is left without a political home. The dilemma of pro-life liberals is that they cannot stand either with liberals who sneer at pro-life attitudes, or with pro-life conservatives who sneer at their other beliefs. The religious and moral vision that constitutes pro-life progressivism stands in isolation between political forces and attitudes that regard commitments to "life" and to "social justice" as mutually incompatible.

Can pro-life progressivism become less isolated and more important as a cultural and political force? Does it have both the internal energy and external appeal to transform politics on the left? These are fundamental questions that cannot be answered by referring to the Democrats' alleged rediscovery of "values" after the 2004 election, or some potential Democratic presidential candidates' tentative approaches to greater dialogue on the abortion question. Any change at the level of merely political trimming and hedging is likely to be ephemeral and vulnerable to political expediency. It needs to be determined instead whether pro-life progressivism can match the enormous upwelling of religious and political energy generated by the new Great Awakening of evangelicism in the late twentieth and early twenty-first centuries. Politics and religion have indeed converged in a mass political movement, but one that links neoconservative, nationalistic politics and a fervent form of Protestant Christianity.

This movement, moreover, has not excluded Catholics. Indeed, the Catholic Right in the United States perceives itself as making common cause with evangelicals on questions not just of sexuality—such as abortion and same-sex marriage—but also on broader political and economic issues. Catholics of such convictions regard themselves as sharing in both the polit-

ical force and moral renewal of the new evangelical Great Awakening,[26] with traditional theological disagreements put to the side.[27] Indeed, we can now talk about an alliance of evangelicals and conservative Catholics whose cultural and political power has secular liberals wringing their hands about the collapse of the separation of church and state and an imminent theocracy in the form of an American "Christian Nation." A fervent form of politicized religiosity has eclipsed the non-threatening, rationalistic, vaguely liberal churches of the traditional Protestant mainstream, spurring calls for increased privatization of religion and its dismissal from the public square.

Secular liberalism's panicked insistence that religious voices should be excluded from the public square should not be heeded. It would be wrong as a matter of principle and highly divisive politically to exclude such voices from public discourse and debate.[28] Instead, more room should be claimed within the public square for different religious voices, including Catholic and other Christian voices arguing that the Christian vision can encompass a cultural and political world view compatible with liberal democracy, that it can infuse that world view with the fervor of religious commitment, and that a godless culture and polity is not the only alternative to a conservative Christian nation. That kind of fervor could energize progressive politics in a way that has long been missing since the Right managed to make "liberal" a dirty word.

This is not to suggest that a Catholic or other Christian must be a socialist, or that left-wing politics and Christian ethics are entirely congruent. Those on the political left can no more make those claims than those on the political right can wrap the cross in the flag, as they often do. Both attempts at political co-optation of religion ignore the singularity of the faith and its irreducibility to a particular politics. The old argument about whether the Left or the Right is more truly Catholic or Christian is both tired and pointless. The faith is what it is, and it is both different from and more than any political ideology. Faith has an explosiveness that should unsettle the presumptions and practices of any political ideology. Nevertheless, Catholics and other Christians can legitimately find in their faith and in

26. See, for example, the comments of a conservative Catholic activist, William Donahue, president of the Catholic League, who participated in "Justice Sunday: Stop the Filibuster Against People of Faith" (referring to the Democratic Senate filibuster against several judicial nominees), organized by evangelicals on April 24, 2005, and said that he had "more in common ideologically with evangelical Protestants and Orthodox Jews than with fellow Catholics such as Sens. Edward M. Kennedy (D-Mass.) and Patrick J. Leahy (D-Vt.), who support abortion rights." Peter Wallsten, *Battle over Benches Spills across Pews*, L.A. Times A10 (Apr. 25, 2005).

27. For an attempt to bridge those theological disagreements among evangelicals and Catholics, see Harold Brown, Charles Colson & Timothy George, *Your Word Is Truth*, First Things 38-42 (Aug.-Sept. 2002); Harold Brown, Charles Colson & Timothy George, *The Call to Holiness*, First Things 23-26 (Mar. 2005) (joint statements of participants in the "Evangelicals and Catholics Together" project).

28. *See* Perry, *supra* n. 12.

their churches' teachings both inspiration and a theoretical framework for scathing critique of our current political, social, and economic arrangements, and positive action for change that resonates with the Gospel. That critique and agenda for action can encompass both "life" and "social justice," showing that the underlying values are linked and not oppositional, and that a religiously-grounded passion for human dignity can be the key to unlocking the ideological straitjacket that binds our current politics. This new type of progressivism would converge at many points with secular liberal politics, but would not be identical with them, and would perhaps be more satisfying to those many Americans for whom religious language, imagery, and authority are very important.

But is that what people want today? Can the concept and imagery of life bridge the gap between liberalism's preoccupation with autonomy and Catholicism's commitment to solidarity? Can the two anthropologies meet, let alone merge in any meaningful way? They can, if Americans begin to feel more profoundly the disgust that emerged from the 2004 presidential election—disgust with a politics that sought to sever faith from a commitment to social justice. There are hopeful signs. The social justice strain within the evangelical tradition is becoming more visible, creating the possibility of common ground with like-minded Catholics, and broadening the evangelical focus beyond the core issues of abortion and "family values," while preserving a pro-life orientation toward abortion.[29] That strain shares all of the fervor of evangelicism's new Awakening, and it can energize those Catholics for whom the consistent ethic of life is a moral and political touchstone. Pro-life progressivism could become a new type of politics that links rather than divides, and offers an important alternative to the frozen polarities of liberal/secular and conservative/religious. As dissatisfaction with those polarities grows, pro-life progressivism may become not only possible but important.

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29. The Reverend Jim Wallis is perhaps the leading exponent of a "liberal" or social justice-oriented evangelicism, as expressed in his popular book, Jim Wallis, *God's Politics: Why the Right Gets It Wrong and the Left Doesn't Get It* (Harper Collins 2005), a clarion call for a new pro-life progressivism. For a pessimistic discussion of the possibilities of a left or liberal evangelicism (and of Wallis' efforts in particular), see Michelle Cottle, *Prayer Center*, 232 New Republic 21, 21-25 (May 23, 2005); *see also* Alan Wolfe, *What God Owes Jefferson*, 232 New Republic 35 (May 23, 2005) (for a critical review of *God's Politics*, in which Wolfe chastises Wallis for infusing faith into left-wing politics in a way as inappropriate as other evangelicals' infusion of faith into right-wing politics). Wolfe has raised an important question about the appropriate role for religious faith in politics that requires a longer and more complex response than can be provided here.

Wallis is not the only proponent of progressive evangelical politics. *See* Thomas Bartlett, *Bush Policies Criticized at Evangelical College*, 51 Chron. Higher Educ. Rep. 38, A10 (May 27, 2005) (available at http://chronicle.com/weekly/v51/i38/38a01005.htm) (one hundred professors at Calvin College sign letter stating that they "see conflicts between our understanding of what Christians are called to do and many of the policies of your administration").

ARTICLE

AMERICAN CATHOLICS AND THE STRUCTURE OF LIFE ATTITUDES

TED G. JELEN*

In his defense of the United States Conference of Catholic Bishops' 1983 pastoral letter, *The Challenge of Peace*, Joseph Cardinal Bernardin of Chicago sought to expand the scope of the letter's moral arguments by suggesting that Catholic positions on a number of issues be integrated to embrace a "consistent ethic of life."[1] This general pro-life *gestalt*, according to Bernardin, would cut across a number of issues, including abortion, capital punishment, the conduct of warfare, and "the care of the terminally ill."[2] Bernardin suggested that these issue positions, and others, are part of a single, life-affirming dimension, which he likened to a "seamless garment."[3]

The purpose of this study is to provide an empirical investigation of the extent to which lay Catholics and Catholic priests understand and apply the consistent ethic of life to a variety of issues to which the seamless garment is clearly relevant. Do American Catholics embody the life ethic in their thinking about political issues? In this article, I will show that relatively few lay Catholics take "pro-life" positions on most of these issues. While priests are more likely to take life-affirming positions on specific issues, neither priests nor laity exhibit structures of attitude organization corresponding to the consistent life ethic.

Early research[4] has shown that adherence to the seamless garment among lay Catholics in the United States has been quite limited. For a number of reasons, it seems unlikely that American Catholics will exhibit

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1. *See generally* Joseph Cardinal Bernardin, *Consistent Ethic of Life* (Sheed & Ward 1988).

2. Joseph Cardinal Bernardin, *Call for a Consistent Ethic of Life*, 13 Origins 491, 493 (Dec. 29, 1983).

3. Bernardin, *supra* n. 1.

4. J. Stephen Cleghorn, *Respect for Life: Research Notes on Cardinal Bernardin's "Seamless Garment"*, 28 Rev. Relig. Research 129, 139 (1986); Ted G. Jelen, *Religious Belief and Attitude Constraint*, 29 J. Sci. Study Religion 118, 124 (1990).

attitudes consistent with the seamless garment. First, American Catholics occupy dual roles as religious believers and citizens of the United States. In the latter capacity, most Americans have come to value individual autonomy, and many have applied this value to their spiritual lives as well. For many American Catholics, Church teachings are considered advisory, and many members of the laity in the United States do not regard adherence to the positions of the Church as essential components of their Catholic identity,[5] although it has been shown that, under some circumstances, the pronouncements of the United Conference of Catholic Bishops can have strong (if perhaps temporary) effects on Catholic opinion.[6] Thus, even if one assumes that the consistent ethic of life is being communicated from the clergy to the laity, it is not clear that Catholic laypeople would experience any pressure to conform to this standard.

Second, the consistent ethic of life is abstract and cognitively demanding. Adherence to consistent life-affirming positions requires the ability to discern the common moral dimension among a number of apparently disparate issues. Citizens (and, presumably, Church members) are more likely to learn and to act on issue positions that are "easy."[7] Understanding that issues such as abortion and capital punishment (for example) embody a common moral principle may be beyond the grasp of unsophisticated or inattentive members of the mass public. Moreover, the cognitive basis of the seamless garment may be further complicated by the fact that the issue positions subsumed under the consistent life ethic cut across ideological (and partisan) lines in the United States. Thus, pro-life positions on abortion or euthanasia are typically associated with "conservatism" in American political discourse, while opposition to defense spending or the death penalty are typically regarded as "liberal" positions. The cues provided by the Church—if indeed such cues are being provided—are often incompatible with those offered by political or journalistic elites.

Third, the specific issues associated with the consistent ethic of life are multidimensional, and involve other considerations than just matters of life and death. Attitudes about abortion are intertwined with beliefs about appropriate sexual mores and differing conceptions of the social roles of women. The "life" which is arguably being taken during an abortion is presumably innocent, in the sense of being morally undeserving of death; the same may not be said of enemy soldiers in wartime or of convicted

5. William V. D'Antonio et al., *American Catholics: Gender, Generation, and Commitment* (AltaMira Press 2001); Patrick H. McNamara, *Conscience First, Tradition Second: A Study of Young American Catholics* (S.U.N.Y. Press 1992).

6. *See e.g.* Kenneth D. Wald, *Religious Elites and Public Opinion: The Impact of the Bishops' Peace Pastoral*, 61 Rev. Pol. 744 (1999) (reviewing the influence of the U.S. Council of Catholic Bishops' 1983 pastoral letter, *The Challenge of Peace*, on American attitudes about war and peace).

7. *Cf.* Edward G. Carmines & James A. Stimson, *The Two Faces of Issue Voting*, 74 Am. Political Sci. Rev. 78 (Mar. 1980).

murderers sentenced to death. Issues such as welfare and health care have elements of taxation and spending that may detract attention from their life-affirming principles. Applying a consistent life ethic to these diverse issues may not only involve the discernment of a common moral principle, but may also involve selective inattention to other aspects of particular questions of public policies.

Finally, the issue positions that compose the seamless garment often vary in salience across time periods, and across individuals. It is perhaps no accident that Bernardin's public advocacy of the consistent life ethic occurred during the early years of the Reagan administration, during which the President of the United States was actively engaged in reducing the role of government in assisting disadvantaged citizens, and actively contemplating aggressive changes in the nuclear strategy of the United States. Indeed, Cleghorn has suggested that Bernardin's advocacy of the consistent ethic of life was occasioned by the writing of *The Challenge of Peace* in 1983.[8] More generally, Timothy Byrnes has shown that the political activity of American Catholic bishops has been largely responsive to the contemporary context of electoral politics[9]—that is, the context and timing of the bishops' pronouncements has typically reflected the existing political agenda of U.S. politics. Further, the public salience of the abortion issue has waxed and waned since the U.S. Supreme Court decision of *Roe v. Wade*,[10] in part in response to changing government policies and Court decisions.[11] Further, aside from changes in political contexts, it is possible (indeed likely) that individual Catholic priests and bishops may attach greater or lesser importance to various "life issues." For these reasons, it is entirely possible that the pro-life *gestalt* that underlies the seamless garment may not be communicated clearly to the laity.

In this study, the extent and organization of pro-life attitudes are examined in samples of lay Catholics and Roman Catholic priests. The data presented here will show that American Catholics do not view "life issues" through a prism of a consistent life ethic. I will also suggest that it is perhaps unreasonable to expect them to do so, given the attitudes of Catholic priests who (presumably) provide religious and moral cues to the laity.

The Consistent Ethic of Life: Operational Considerations

To the extent that Catholics adhere to a consistent-life ethic as described by Cardinal Bernardin, one might anticipate that Catholic attitudes on issues related to the seamless garment would have two characteristics. First, one would expect that Catholics would take pro-life positions on any

8. Cleghorn, *supra* n. 7.

9. Timothy A. Byrnes, *Catholic Bishops in American Politics* (Princeton U. Press 1991).

10. 410 U.S. 113 (1973).

11. Ted G. Jelen & Clyde Wilcox, *Causes and Consequences of Public Attitudes toward Abortion: A Review and Research Agenda*, 56 Political Research Q. 489 (2003).

particular issues for which the life ethic seemed relevant—that is, pro-life Catholics would be likely to oppose legal abortion and the death penalty, and to favor government spending on health care and welfare. Further, pro-life Catholics would be expected to oppose military spending and to favor gun control.

Second, one would expect genuinely pro-life Catholics to evince rather simple (even unidimensional) attitude *structures*. The idea of an attitude structure refers to the number of underlying dimensions that a given person can bring to bear on a set of issue attitudes, or, alternatively, the number of distinctions such a person wishes to make. To illustrate, a respondent who took consistently pro-life positions on issues such as abortion, capital punishment, euthanasia, and the use of military force would exhibit a one-dimensional attitude structure. By contrast, a person who distinguished between the taking of "innocent" life (abortion, euthanasia) and the taking of lives because of the negative characteristics of the persons whose lives were taken (death penalty, military force) would be characterized as having an attitude structure with two dimensions. Clearly, the thrust of the consistent-life ethic suggests that all these issues, and others, are cut from the same cloth, and, therefore, that a unidimensional attitude structure is to be preferred.

In other words, adherence to a consistent ethic of life would require that Catholic attitudes on life issues exhibit a particular *direction*, and that the relationships between such attitudes exhibit a particular (simple) *structure*. In this study, the direction and structure of life attitudes is investigated in samples of Catholic laity and Catholic priests. The results from the survey of priests may provide evidence concerning the religiously based cues received by Catholic laypersons.

Data and Method

Data for this study were taken from two sources. Data for the Catholic laity were taken from the 1972-2002 General Social Surveys (GSS). The analyses presented here are confined to self-identified Roman Catholics. In order to ensure an adequate number of cases for analysis, the data were pooled for all years. Inspection of the marginal distributions for the seven survey items that composed the dependent variables for this study shows that the attitudes in question do not vary substantially across the time span of the GSS.[12] Interestingly, lay Catholics do not appear more likely to take pro-life positions or to exhibit greater attitude consistency after Bernardin's articulation of the consistent ethic of life than before. Moreover, inclusion of dummy variables corresponding to the presidential terms covered during the GSS in the multivariate analyses presented here[13] does not substantially

12. *See infra* app. C.
13. *See infra* tbls. 4 & 6.

affect the results presented here.

The analyses of the attitudes of Catholic priests are based on a national mail survey of Roman Catholic pastors in the United States. This survey was part of the Cooperative Clergy Study Project.[14] The mailing list came from two simple random samples of one thousand Roman Catholic parishes drawn from the National Parish Inventory (NPI). The NPI is a database of all Catholic parishes in the United States that is maintained by the Center for Applied Research in the Apostolate (CARA) located at Georgetown University. Two waves of the survey were sent to the first sample in January and March of 2001, and a second sample received one mailing in February 2002. These mailings yielded 454 usable questionnaires for a somewhat disappointing response rate of 22.7 percent. Although this is not unusual for a mail survey, the relatively small *N* suggests that the results presented here should be interpreted with caution.[15] However, several of the bivariate relationships discerned in analyses of these data are consistent with other national surveys of Catholic priests.[16]

For each survey, attitudes toward seven "life issues" are considered: abortion, euthanasia, capital punishment, defense spending, gun control, welfare spending, and government spending on health care. Although there are important differences in question wording between the two surveys,[17] both samples provided responses to the same range of public policy questions.

This study includes analyses of the distribution of attitudes on life issues among Catholic clergy and lay Catholics, as well as consideration of the cognitive structure underlying those attitudes. Further, multivariate models will be estimated, in which the sources of attitude direction and consistency are investigated.

The Distribution of Life Attitudes

To what extent do American Catholics take pro-life positions on a range of issues on which the consistent ethic of life might seem relevant? This question is addressed in Table 1, which simply contains the marginal

14. *See* Corwin Smidt, *Clergy in American Politics: An Introduction*, 42 J. Sci. Study Religion 495 (2003) [hereinafter *Cooperative Clergy Study Project*].

15. *See* Mary E. Bendyna & Ted G. Jelen, Paper Presentation, *The Political Activities of Roman Catholic Priests in the Election of 2000* (Annual Meeting of the Am. Political Sci. Assn., San Francisco, Cal., Aug. 30, 2001); Ted G. Jelen, *Catholic Priests and the Political Order: The Political Behavior of Catholic Pastors*, 42 J. Sci. Study Religion 591 (2003).

16. *See e.g.* Dean R. Hoge & Jacqueline E. Wenger, *Evolving Visions of the Priesthood: Changes from Vatican II to the Turn of the New Century* (Liturgical Press 2003); Dean R. Hoge et al., *Changes in Satisfaction and Institutional Attitudes of Catholic Priests, 1970-1993*, 56 Sociology of Religion 195 (1995); Larry B. Stammer, *Conservative Trend Found in Younger Priests*, L.A. Times A1 (Feb. 21, 1994); Teresa Watanabe, *Young Priests Hold Old Values*, L.A. Times A1 (Oct. 21, 2002).

17. *See infra* app. A.

distributions of members of both samples taking life-affirming positions across the seven issues considered in this study.

Table 1:

Percentage Taking Pro-Life Positions

	Laity	*Priests*
Abortion	17.1*	37.9**
Euthanasia	32.2	75.9
Death Penalty	21.0	90.4
Defense Spending	33.7	31.7
Gun Control	83.1	69.9
Healthcare Spending	67.2	72.8
Welfare Spending	17.8	31.1

* Percent willing to allow legal abortion in one or zero circumstances.

** Priest question asks about constitutional amendment prohibiting abortion.

Sources: *General Social Surveys*, *infra* app. A; *Cooperative Clergy Study Project*, *supra* n. 14.

As the data in Table 1 indicate, pro-life attitudes are far from universal among Catholic clergy or laity. Among the Catholic members of the GSS sample, pro-life positions only attract majority support with respect to the issues of gun control and healthcare spending. About a third of Catholic laypeople oppose euthanasia or favor reduced defense spending, while a fifth or fewer take life-affirming positions on the death penalty, abortion, or welfare spending.

Proponents of the seamless garment can take somewhat greater comfort from the distribution of pro-life attitudes among Catholic priests, but such a reaction must be qualified carefully. On four of the seven issues considered, large majorities of clergy take positions consistent with the life ethic. Indeed, priestly opposition to euthanasia and support for gun control and healthcare spending is very high, and clerical opposition to the death penalty is overwhelming. Further, the limited number of priests taking a pro-life position on abortion is undoubtedly attributable to the wording of the abortion question on the clergy survey, which asks respondents about the necessity of a constitutional amendment prohibiting abortion (with exceptions). It seems quite likely that some members of the priest sample disagreed with the statement because of exceptions for rape, incest, or maternal health, while others who might well oppose abortion disagree that an amendment to the United States Constitution is appropriate. Only on the

issues of defense spending[18] and welfare spending do a majority of priests take a position inconsistent with Bernardin's life ethic.

With the exception of the death penalty item, substantial numbers of priests do not take positions that might be subsumed under the life ethic. Support for the consistent ethic of life, as measured by attitudes on particular issues, is not universal even among the Catholic clergy.

The Structure of Life Attitudes

If American Catholics organize their attitudes on life issues in a manner consistent with the seamless garment, one would expect a unidimensional or a very simple cognitive structure. That is, if respondents who take pro-life positions on one issue are more likely to take pro-life positions on other issues, life-issue attitudes should be organized around one, or a very few, more general *gestalts*. In other words: the simpler the attitude structure, the more internally consistent the attitudes of the population.

The statistical technique used to describe the attitude structures of the priest and lay samples is termed *factor analysis*. Factor analysis is a method that allows a researcher to determine the structure or number of underlying dimensions that best describe a given set of data—that is, across a set of respondents, the results of factor analysis describe how respondents organize different variables in the aggregate. Further, factor analysis provides a *factor loading* for each variable. Factor loading allows the researcher to determine the extent to which a given dimension (or factor) is defined by a particular variable. The factor loadings enable us to describe the substantive meaning of a given attitude dimension. For example, a factor on which attitudes toward abortion and euthanasia are exhibiting strong loadings, and on which the other variables in the analysis are loading weakly, might be considered a factor that taps attitudes toward the protection of "innocent" life.[19]

The question of attitude organization is addressed in Tables 2 and 3, which contain factor analyses of the seven life issues for lay Catholics and clergy, respectively. As Table 2 indicates, attitudes of the laity are organized around three underlying dimensions. The first of these is an attitude dimension defined by attitudes toward abortion and euthanasia. Substantively, the fact that these issue attitudes load on the same factor means that laypeople who take pro-life positions on abortion are also likely to take pro-life positions on the question of euthanasia (and vice versa). However, the relationships between abortion and euthanasia attitudes and the other five

18. Interestingly, responses to this question do not seem affected by the timing of the survey. Two of the three waves were conducted before the 9/11 tragedy, and one was completed six months after the event.

19. For a more complete discussion of factor analysis, see Jae-On Kim & Charles W. Mueller, *Factor Analysis: Statistical Methods and Practical Issues* (Sage U. Series: Quantitative Applications in the Soc. Sci. No. 07-014, 1978).

life issues are considerably weaker. A second factor, termed "domestic issues," shows that attitudes toward welfare spending, gun control, and healthcare spending are also highly related to one another. A third factor is defined by strong relationships between lay attitudes on defense spending and capital punishment. Thus, far from being subsumed under a single, pro-life *gestalt*, life attitudes among the laity are highly differentiated and therefore (from the standpoint of the life ethic) rather inconsistent.

Table 2:

Factor Analysis of Attitudes on Life Issues: Laity

Abortion	.792		
Euthanasia	.828		
Welfare Spending		.638	
Gun Control		.688	
Healthcare Spending		.560	
Defense Spending			.808
Death Penalty			.536
Eigenvalues	1.56	1.28	1.01

Source: *General Social Survey*, *infra* app. A.

Note: Eigenvalues are estimates of the percentage of total response variation among respondents that is accounted for by a particular factor. Kim & Mueller, *supra* n. 19.

Perhaps surprisingly, factor analysis of clerical attitudes on life issues yields a similarly complex, three-factor solution. The substantive content of the underlying dimensions of priestly attitudes is similar to that of the laity, with some subtle differences. A domestic-issues factor shows close relationships among attitudes toward healthcare spending, gun control, and the death penalty, while a second factor is defined by strong loadings from welfare spending and defense spending. It is somewhat difficult to attach a plausible substantive meaning to this factor, but the statistical explanatory power of this dimension is substantial. A final factor is identical to one of the dimensions of lay attitudes, and is defined by clerical attitudes toward abortion and euthanasia.

As was the case with the laity, the results of the analysis of clerical attitudes evince substantial differentiation, and, therefore, inconsistency with the notion that Catholic social teaching is actually motivated by adherence to a single life-affirming ethic. Without seeing a more parsimonious

Table 3:			
Factor Analysis of Attitudes on Life Issues: Priests			
Healthcare Spending	.737		
Gun Control	.780		
Death Penalty	.532		
Welfare Spending		.819	
Defense Spending		.797	
Abortion			.752
Euthanasia			.698
Eigenvalues	1.64	1.36	1.04
Source: *Cooperative Clergy Study Project, supra* n. 14.			

structure of clerical attitudes, we should not be surprised that lay attitudes about life issues are as inconsistent as these results would suggest.

Sources of Life Attitudes

The factor analyses presented in Tables 2 and 3 provide a sense of the structure of life attitudes in the aggregate. However, it seems obvious that such descriptions of entire populations conceal substantial individual variation. Clearly, some Catholic laypeople and some priests are more likely to take pro-life positions than others, as some respondents are more internally consistent (or "constrained") than others. In this section and the next, I seek to identify characteristics that render some Catholics more pro-life, and more consistently pro-life, than their counterparts. In this section, the focus is on the direction of Catholic attitudes toward life issues, while the following section deals with sources of attitude consistency.

This section contains a number of multivariate models, which have been estimated to determine the sources of pro-life attitudes. The dependent variables are indices of pro-life attitudes for each attitude dimension defined by the factor analyses described above, as well as a composite index that summarizes the pro-life positions across all seven issues under consideration.

The statistical technique used to determine the effect of each independent variable on each dependent variable is called *multiple regression*, or, more formally, *ordinary least squares (OLS) regression*. Regression allows a researcher to compute an equation that estimates the unique effects of each independent variable on the dependent variable, while holding con-

stant the effects of the other variables in the equation. For example, in Table 4, the effects of subjective religiosity on attitudes toward abortion and euthanasia are statistically significant, even when the effects of church attendance and Bible authority are taken into account. This finding is a powerful testament to the importance of subjective religiosity, because it shows that people who describe themselves as religious are more likely than others to report frequent church attendance and to regard the Bible as an authoritative source. Thus, the effect of subjective religiosity on attitudes toward abortion/euthanasia remains important, even when the effects of church attendance and views of the Bible are taken into account.[20]

Thus, the dependent variables for the analysis of lay attitudes are indices summarizing each respondent's attitudes on abortion and euthanasia; on the "domestic issues" of healthcare spending, welfare spending, and gun control; and on the questions of defense spending and the death penalty. An index of "all life issues" is defined by the number of pro-life positions taken on all seven life issues. Each index was computed by taking the individual mean of attitudes across the range of issues defined by each respective index.

The analysis of lay attitudes consists of three sets of independent variables. The first set consists primarily of religious variables, which include church attendance, subjective religiosity (does the respondent identify as a "strong Catholic?"), and respect for the authority of the Bible. Although a high view of scripture is not necessarily a tenet of Roman Catholicism, some research has suggested that Catholics who hold the Bible to be an authoritative source are more likely to accept Church teachings.[21] Further, dummy variables, which define respondents as either "pre-Vatican II Catholics" (born before 1941) or "post-Vatican II Catholics" (born after 1960), were also computed. "Vatican II Catholics" (born between 1941 and 1960) constituted the comparison category. This variable was included with the expectation that reaction to Church teaching might well be a function of early socialization, which might well vary according to one's chronological proximity to the Second Vatican Council.[22]

A second set of independent variables consists of standard demographic variables. These include respondent sex, race, education, marital status, and residence in the South. Finally, a third set of predictors of life

20. For an overview of multiple regression, see Christopher H. Achen, *Interpreting and Using Regression* (Sage U. Series: Quantitative Applications in the Soc. Sci. No. 07-029, 1982). In this paper, the regression models are reported in terms of unstandardized regression coefficients. While this makes the coefficients substantively difficult to interpret, the use of unstandardized coefficients allows the magnitude of these statistics to be compared across equations (or columns) within the same table.

21. Ted Jelen, *Religion and Foreign Policy Attitudes: Exploring the Effects of Denomination and Doctrine*, 22 Am. Pol. Q. 382 (1994).

22. D'Antonio, *supra* n. 5.

attitudes is more political in nature, and includes respondents' partisanship and ideological self-identification.

Religious variables dominate the equation that explains attitudes toward the abortion/euthanasia issue cluster. Frequent church attendees, self-identified "strong" Catholics, and respondents who regard the Bible as an authoritative source are all more likely than other Catholics to oppose legal abortion and euthanasia. Self-identified conservatives are also more likely to report pro-life attitudes toward these issues. By contrast, pro-life attitudes on the issues that comprise the "domestic issues" cluster (gun control and government spending on health care and welfare) are best explained by political attitudes: Democrats and self-identified liberals are more likely to take pro-life positions on these issues. A mixture of religious, demographic, and political variables accounts for attitudes in the defense/death penalty issue grouping, with frequent church attendees, respondents who hold a high view of biblical authority, unmarried people, African-Americans, women, Democrats and liberals most likely to oppose capital punishment and increased defense spending. Interestingly, this set of issues is the one dimension in which the respondent's generation matters: younger Catholics are more likely to embrace life-affirming positions on the death penalty and defense spending than are other Catholics.

When the composite life index is considered, variation in the overall willingness to take pro-life positions is more difficult to explain. Although the explanatory power (R^2) of the model is stronger than for the equations for two of the three narrow issue domains, only frequent church attendees, women, and Democrats seem distinctive in their willingness to take multiple pro-life positions across all seven issues considered here. It is also worth noting that, with the possible exception of the abortion/euthanasia issue cluster, the explanatory power of each of the equations in Table 4 is very weak.

Our analysis strategy is somewhat different when determining explanations for the variation in pro-life attitudes among Catholic priests. The survey associated with the Cooperative Clergy Study Project contains a much richer range of attitudinal variables than does the General Social Survey. In addition, there is far less variation in a number of demographic variables among members of a sample of Catholic priests. Obviously, gender and marital status do not vary at all, and there is only slight variation in race and educational attainment.[23] Rather, the models that are estimated to explain variation in clerical attitudes on life issues are primarily attitudinal, and, indeed, theological.

The independent variables in Table 5 include an index of the importance each respondent attached to issues of social justice (such as poverty

23. Ted G. Jelen, *Catholic Priests and the Political Order: The Political Behavior of Catholic Pastors*, 42 J. Sci. Study Religion 591, 594 (2003).

Table 4:
Multivariate Models of Mean Life Attitude Dimensions: Laity
(OLS Regression)

	Abortion/ Euthanasia	*Domestic Issues*[1]	*Defense/Death Penalty*	*All Life Issues*
Pre-Vatican II	−.030	.004	.016	.008
Post-Vatican II	.027	−.004	.038*	.024
Church Attendance	.032***	−.001	.014**	.012**
Subjective Religiosity	.066***	−.011	−.009	−.008
Bible Authority	.058***	.010	.041**	−.008
Married	.015	.004	0.33*	.011
Black	.054	.051	.151***	.042
Sex	.005	.041**	.047**	.027*
Education	−.003	.000	.001	.002
South	.025	.003	−.008	−.017
Party ID	.005	−.016***	−.024***	.017***
Liberal/Conservative	.045***	−.019**	−.025***	.006
Constant	1.28	1.62	1.07	1.37
Adjusted R^2	.200	.039	.073	.093
N	1642	1281	1974	783

* Significant at .05.
** Significant at .01.
*** Significant at .001.
[1] Includes welfare spending, healthcare spending, and gun control.

Source: *General Social Survey, infra* app. A.

and racial discrimination) as well as an index of the priority given to issues relating to the agenda of the Christian Right (e.g., abortion, school prayer). Three other measures tap different aspects of clerical theology: "public religion," or attitudes about the role of religion in American public life; doctrinal orthodoxy; and ecumenism (see Appendix B for details of index construction).

The regression equations in this table also include measures of respondent belief in the authority of the Bible (an item not included in the orthodoxy index), clerical attitudes about whether the United States Conference of Catholic Bishops (USCCB) should take positions on political issues, and

an item which taps the attitudes of priests on a dimension of "individualism/communalism."[24]

Table 5 also includes a variable that distinguishes priests under the age of forty from the rest of the sample. Previous analyses of these data have shown that younger priests are considerably more theologically and politically conservative than their elders.[25] This result is consistent with other recent analyses of clerical attitudes among Catholic priests.[26] Finally, the models estimated in Table 5 include measures of partisan identification, ideological self-placement, and residence in the South.

The results presented in Table 5 suggest that the sources of clerical attitudes within different issue domains vary considerably. When attitudes toward the abortion/euthanasia cluster are considered, only the effects of Southern residence approach statistical significance (at .10). Further, the explanatory power of this model is quite weak.

The equations associated with priests' attitudes on domestic issues (including attitudes toward healthcare spending, gun control, and the death penalty) and the defense spending/welfare spending dimensions are considerably more robust. For both sets of issue attitudes, Democrats and respondents who regard religion as a public matter are more likely to take pro-life positions on these issues than other respondents. With respect to the domestic issues dimension, self-identified liberals and respondents who attach high priority to issues of social justice are more likely to take pro-life positions, while biblical literalists and priests who attach importance to issues associated with the agenda of the Christian Right are less likely to apply the consistent ethic of life to domestic issues. Priests who take pro-life positions on the defense/welfare dimension are less likely to assign importance to issues of social justice, and more likely hold communalist, rather than individualist, theological attitudes.

Finally, the explanatory model depicted in Table 5 shows that there are few variables which predict clerical propensity to take life-affirming positions across all seven issue attitudes considered here. Adherence to the consistent-life ethic is strongest among younger priests, priests who place a high priority on issues of social justice, and those who favor a strong public role for religion. Again, the explanatory power of the model in which all life attitudes comprise the dependent variable is quite modest.

This moderately complex set of results can be summarized rather easily. While clearly there are priests and lay Catholics who take pro-life positions across a portion of the "life agenda," or across all seven issues considered in this analysis, there is no set of variables or attitudes that con-

24. David C. Leege, *Catholics and the Civic Order*, 50 Rev. Pol. 704 (1988); see Appendix A for wording questions.

25. Bendyna & Jelen, *supra* n. 15.

26. *See* Leege, *supra* n. 24.

Table 5:

Multivariate Models of Mean Life Attitude Dimensions: Priests

(OLS Regression)

	Abortion/ Euthanasia	*Domestic Issues*[1]	*Defense/Welfare*	*All Life Issues*
40 and Under	−.130	.230	.239	.148****
Party ID	.037	.079**	.146***	.002
Liberal/Conservative	.030	.089****	−.065	.021
South	−.281****	−.210	−.148	−.021
Importance: Social Issues	.124	.281**	−.192*	.112*
Importance: Christian Social Right Agenda	−.075	−.179*	.133	−.055
Public Religion	.055	.196**	.18*	.140**
Catholic Orthodoxy	−.098	−.40	−.015	−.043
Ecumenism	−.134	.000	−.029	−.049
Bible Authority	.008	−.136**	.047	−.044
USCCB Take Position	−.039	.027	.062	.019
Communal Religion	.011	−.036	.076*	.011
Constant	3.42	1.14	3.09	2.33
Adjusted R^2	.009	.296	.328	.079
N	227	217	224	214

* Significant at .05.

** Significant at .01.

*** Significant at .001.

**** Significant at .10.

[1] Includes healthcare spending, death penalty, and gun control.

Source: *Cooperative Clergy Study Project*, *supra* n. 14.

sistently distinguishes pro-life Catholics from their coreligionists. Substantively, this finding suggests that even Catholics who take apparently pro-life positions on particular issues (whether in the pulpit or in the pew) tend to be issue specialists, and do not connect these attitudes to a more general theological attitude structure.

Sources of Attitude Constraint

The preceding section was focused on the *direction* of clerical and lay attitudes toward sets of "life issues." In this section, attention is shifted to the *consistency* of attitudes on these issues. The analyses presented in Tables 2 and 3 above showed that, in the aggregate, neither laypersons nor priests exhibited anything approaching a unidimensional attitude structure across the seven life issues under investigation. In this section, an attempt is made to determine whether individual Catholics who hold consistent life attitudes can be identified.

For the following analyses, the independent variables are identical to those used in the equations that are comprised in Tables 4 and 5. However, the dependent variables in the following tables are estimates of individual attitude consistency. These are computed by recoding all issue positions to a common range and direction, and computing individual standard deviations across all seven issue attitudes. Thus, a respondent who takes consistently pro-life (or anti-life) positions across all issues within an attitudinal dimension would have a standard deviation of 0, which would indicate very high internal consistency. Higher scores indicate lower levels of attitudinal constraint.[27] Individual constraint scores are computed for each issue dimension identified by the factor analyses for members of both samples, and for the entire range of life issues.

As the multivariate models presented in Table 6 show, there is no consistent pattern to support consistently pro-life attitudes within or among issue domains. The explanatory power of the equations is minuscule, and no variable is consistently related to attitude constraint across issue areas. Church attendance is related to attitude consistency only with respect to the abortion/euthanasia and defense/death penalty dimensions, and respondent belief in the authority of the Bible is only related to the former. Younger Catholics are more consistent with respect to the defense/death penalty issue cluster, but are not distinctive across other issue areas. The pattern of demographic and political issues is similarly inconsistent, and the only variable that is significantly related to constraint across all issue areas is the respondent's sex. The data in Table 6 show that there is no religiously- or politically-defined constituency for consistent-life attitudes among the Catholic laity.

27. For applications of this technique, see James Campbell, *Ambiguity in the Issue Positions of Presidential Candidates: A Causal Analysis*, 27 Am. J. Political Sci. 284 (1983); Ted G. Jelen, *Religious Belief and Attitude Constraint*, 29 J. Sci. Study Religion 118 (1990); Jill K. Kiecolt & Hart M. Nelsen, *The Structuring of Political Attitudes among Liberal and Conservative Protestants*, 27 J. Sci. Study Religion 48 (1988); Robert C. Luskin, *Measuring Political Sophistication*, 31 Am. J. Political Sci. 856 (1987); Clyde Wilcox, *America's Radical Right Revisited: A Comparison of Activists in Christian Right Organizations from the 1960s to the 1980s*, 48 Sociological Analysis 46 (1987).

Table 6:				
Multivariate Models of Constraint on Life Issues: Laity				
(OLS Regression)				
	Abortion/ Euthanasia	*Domestic Issues*[1]	*Defense/Death Penalty*	*All Life Issues*
Pre-Vatican II	.010	0.14	−.020	.002
Post-Vatican II	.021	.005	.058**	.006
Church Attendance	.006*	.001	.005*	.001
Subjective Religiosity	.001	−.003	−.005	.002
Bible Authority	.030**	.008	.020	.002
Married	.024*	.029*	.014	−.007
Black	.061*	−.045	.059*	−.001
Sex	−.007	0.12	.026	.023***
Education	.006**	.000	−.001	.002
South	.003	.00	−.027	−.001
Party ID	.005	.004	.014**	−.004
Liberal/Conservative	−.001	−.004	.002	−.001
Constant	.354	.472	.182	.437
Adjusted R^2	.022	.000	.017	.022
N	1642	1281	1974	783
* Significant at .05.				
** Significant at .01.				
*** Significant at .001.				
[1] Includes welfare spending, healthcare spending, and gun control.				
Source: *General Social Survey, infra* app. A.				

In Table 7, the analysis of attitude consistency is extended to the sample of Catholic priests. While there are more coefficients that attain statistical significance, it remains the case that no clear pattern of attitudinal constraint emerges. On two of the three issue dimensions, and on the composite life consistency measure, younger priests are more consistent than their elders. Democrats and biblical literalists are more consistent on the overall life index only, while theologically orthodox priests are more constrained than others on the abortion/euthanasia dimension, and on the overall life index. Priests who attach greater importance to issues of social justice are more constrained on the domestic issues cluster, and are also

Table 7:

Multivariate Models of Constraint on Life Issues: Priests

(OLS Regression)

	Abortion/ Euthanasia	*Domestic Issues*[1]	*Defense/Welfare*	*All Life Issues*
40 and Under	−.438****	−.442**	.131	−.233**
Party ID	−.066	.047	−.001	−.038**
Liberal/Conservative	.137	.091****	−.057	−.010
South	−.078	−.138	−.300****	−.104
Importance: Social Issues	−.120	−.139****	.012	−.120**
Importance: Christian Right Agenda	−.248****	.000	−.020	−.027
Public Religion	−.139***	.151*	−.087	−.031
Catholic Orthodoxy	−.284****	.047	−.011	−.112**
Ecumenism	−.062	−.022	−.026	−.059
Bible Authority	.112	−.012	.087	.067**
USCCB Take Position	.089	.008	.010	.020
Communal Religion	−.063	−.001	−.010	−.010
Constant	3.57	.234	.963	2.17
Adjusted R^2	.172	.095	.063	.219
N	227	217	224	214

* Significant at .05.

** Significant at .01.

*** Significant at .001.

**** Significant at .010.

[1] Includes healthcare spending, death penalty, and gun control.

Source: *Cooperative Clergy Study Project, supra* n. 14.

more consistent with respect to the overall life index. Public religionists are more consistent on the issues that comprise the abortion/euthanasia and domestic issues dimensions, while Southern priests are slightly more consistent on issues that define the defense/welfare spending dimension.

Some of these particular results are intriguing, and cry out for further investigation. However, what is of greatest interest for present purposes is the overall pattern of coefficients. No religious, demographic, or political

variable predicts attitude consistency across the issue domains defined by the factor analysis presented in Table 3. The independent variables that predict clerical attitude consistency with each issue domain are largely idiosyncratic, and suggest again that Catholic priests tend to be issue specialists when attitudes toward life issues are considered. To a large extent, the data presented in Tables 5 and 7 support the conclusion that Catholic priests, like their counterparts in the laity, tend to compartmentalize their attitudes about issues which Bernardin's consistent ethic of life suggests should be conceptually connected.

Of course, the models in these tables may be flawed because their dependent variables do not take into account the direction of Catholic attitudes. That is, the constraint scores, measured by individual standard deviations, do not distinguish between respondents who consistently take pro-life positions from those who consistently take positions not compatible with the seamless garment. Since it seems unlikely that many lay Catholics consistently oppose the application of the life ethic, and it is virtually inconceivable that appreciable numbers of Catholic priests do so, the equations in Tables 6 and 7 may underestimate the extent of life-affirming consistency among Catholic priests and laity.

In order to test for this possibility, Table 8 presents the results of regression equations for both samples, in which the dependent variable represents the extent of pro-life attitude constraint. The dependent variable is an interaction term that combines the direction of pro-life attitudes with the consistency that such attitudes are reported. This analysis is confined to the entire range of life issues. The directional component (overall individual mean) is recoded so that lower scores represent attitudes more consistent with the life ethic. Thus, higher scores are changed to reflect lower scores and vice versa for this analysis, so that lower scores on each component of the interaction term are associated with greater adherence to pro-life positions on individual variables, and with greater attitude consistency across variables. This recoded mean is multiplied by the constraint score (individual standard deviation across all seven life issues) so that lower scores designate respondents who exhibit both high levels of support for the life agenda and high attitude consistency.

Between both samples, Democrats are slightly, but significantly, more likely to exhibit consistent-life attitudes than Republicans or independents. For the laity, church attendance has a slight positive effect on the development of consistent-life attitudes, and women are significantly more likely to take consistently pro-life attitudes on the issues considered here. Among priests, younger priests seem more likely to embrace the life ethic than their elders, and less theologically orthodox priests are more consistently pro-life than their more traditionalist counterparts. This latter finding is of considerable interest, since it suggests that clerical support for the consistent ethic of life comes from sources that operate at cross-purposes. When orthodoxy

is held constant, younger priests are more likely to take positions consistent with the concept of the seamless garment. However, younger priests are slightly more orthodox than their elders. Thus, clerical support for the consistent life ethic appears to come from two independent sources: younger priests, who are more orthodox, and less traditionalist priests, who are slightly overrepresented among older Catholic clergy. Again, the explanatory power of both equations is quite modest.

Conclusion

The results of this study can be summarized rather simply. Neither lay Catholics nor Roman Catholic priests exhibit attitudes consistent with Cardinal Bernardin's "seamless garment." Lay Catholics do not appear to take life-affirming positions on several of the issues that presumably would be subsumed within a consistent ethic of life. Neither priests nor laity appear to organize their attitudes around a pro-life *gestalt*, nor do there exist religious, demographic, or attitudinal variables that distinguish pro-life Catholics from other members of the faith. Among both clergy and laity, Catholics appear to resemble "issue specialists" who approach specific questions of public policy individually, without regard for an underlying theological rationale. To the (limited) extent that consistently pro-life attitudes exist among the clergy, they are held by priests apparently cross-pressured by the effects of generation and doctrinal orthodoxy.

To the extent that adherence to the consistent ethic of life constitutes a priority for Catholic leaders, it is clear that much work remains to be done. While U.S. Catholics often regard Church teachings as advisory, the results of this study suggest that the life ethic is probably not being communicated from the pulpit to the pew. On life issues, American lay Catholics appear to be working with the inconsistent materials being made available by their spiritual leaders.

Table 8:		
Multivariate Models of Constrained Pro-life Attitudes: Laity and Priests		
(OLS Regression)		
	Laity	*Priests*
South	.004	.287
Party ID	.011**	.016*
Liberal/Conservative	−.011	.017
40 and Under	—	.844**
Pre-Vatican II	−.007	—
Post-Vatican II	−.017	—
Church Attendance	.006*	—
Subjective Religiosity	.015	—
Bible Authority	.007	−.116
Married	.004	—
Black	.000	—
Sex	−.047***	—
Education	−.003	—
Importance: Social Issues	—	.179
Importance: Christian Right Agenda	—	.114
Public Religion	—	−.109
Catholic Orthodoxy	—	−.362**
Ecumenism	—	.199
USCCB Take Position	—	.082
Communal Religion	—	.030
Constant	.598	4.29
Adjusted R^2	.064	.134
N	783	214
* Significant at .05.		
** Significant at .01.		
*** Significant at .001.		

APPENDIX A:
QUESTION WORDING

General Social Survey:

Please tell me whether or not *you* think it should be possible for a pregnant woman to obtain a *legal* abortion if . . . READ EACH STATEMENT, AND CIRCLE ONE CODE FOR EACH.

- If there is a strong chance of serious defect in the baby?
- If she is married and does not want any more children?
- If the woman's own health is seriously endangered by the pregnancy?
- If the family has a very low income and cannot afford any more children?
- If she became pregnant as a result of rape?
- If she is not married and does not want to marry the man?

Abortion index individual mean value across all six items (alpha=.855).

We are faced with many problems in this country, none of which can be solved easily or inexpensively. I'm going to name some of these problems, and for each one I'd like you to tell me whether you think we're spending too much money on it, too little money, or about the right amount. First (READ ITEM A) . . . are we spending too much, too little, or about the right amount on (ITEM)?

- The military, armaments, and defense
- Welfare
- Improving and protecting the nation's health

When a person has a disease that cannot be cured, do you think doctors should be allowed by law to end the patient's life by some painless means if the patient and his family request it?

Would you favor or oppose a law which would require a person to obtain a police permit before he or she could buy a gun?

Do you favor or oppose the death penalty for persons convicted of murder?

Clergy Cooperative Study Project:

Please tell us whether you agree or disagree with the following statements about social and political policies and problems.

- Current welfare reforms are too harsh and hurt children.

- We need a constitutional amendment prohibiting all abortions unless to save the mother's life, or in case of rape or incest.
- The U.S. should spend more on military and defense.
- Public policy should discourage ownership and use of handguns.
- We need government-sponsored national health insurance so that everyone can get adequate medical care.
- I oppose capital punishment.

Please place yourself on the following scales:

- God interacts with humanity primarily on an individual basis
- God interacts with humanity primarily through communities

(Rated on a one to seven scale)

- The United States Conference of Catholic Bishops should refrain from making statements on political issues
- The United States Conference of Catholic Bishops should articulate Catholic positions on political issues

(Rated on a one to seven scale)

- In some situations, physicians should help terminally ill patients end their lives painlessly
- Physicians are morally obligated to preserve life at all times

(Rated on a one to seven scale)

All items recoded to common range and direction.

APPENDIX B:

CONSTRUCTION OF INDICES

Importance: Social Justice = mean (frequency with which respondent reports addressing hunger/poverty, gender equality, race relations, death penalty, gun laws, gay rights, and domestic violence). alpha = 0.84.

Importance: Christian Right Agenda = mean (frequency with which respondent reports addressing abortion, school prayer, education and school choice, and scandals in government). alpha = 0.79.

Public Religion = mean (agree America Christian nation, exists one correct Christian position on most issues, Christianity uniquely compatible with free enterprise, need to protect U.S. religious heritage, and there exists a threat to religious freedom in the United States by those who oppose religion). alpha = 0.69.

Doctrinal Orthodoxy = mean (agree Jesus born of a virgin, literal Second Coming of Christ, devil actually exists). alpha = 0.69.

Ecumenism = mean (accept moral equivalence of great religions, de-emphasis on individual sanctification, agree social justice at heart of Gospel, approval of liberation theology, approval of feminist theology). alpha = 0.66.

Source: *Cooperative Clergy Study Project, supra* n. 14.

Note: Alpha is an estimate of the extent to which different variables form a common dimension. The higher the value of alpha, the more likely it is that all included variables are part of the same underlying factor. *See* Edward G. Carmines & Richard A. Zeller, Reliability and Validity Assessment (Sage Publications 1977).

APPENDIX C:

MEAN ISSUE ATTITUDES BY PRESIDENTIAL ADMINISTRATION

	Abortion	*Defense Spending*	*Healthcare Spending*	*Welfare Spending*
Nixon/Ford	1.3298	1.3401	1.6423	1.2059
Carter	1.3362	1.2032	1.5778	1.1349
Reagan 1	1.3597	1.3515	1.6090	1.2530
Reagan 2	1.3833	1.4234	1.6487	1.2317
Bush 1	1.3423	1.3755	1.7184	1.2367
Clinton 1	1.3366	1.3562	1.6899	1.1490
Clinton 2	1.3814	1.2920	1.7093	1.1900
Bush 2	1.3646	1.2228	1.7485	1.2123
Total Mean	1.3505	1.3222	1.6526	1.1968

	Euthanasia	*Death Penalty*	*Gun Control*
Nixon/Ford		1.3344	1.7427
Carter	1.3875	1.2874	1.7189
Reagan 1	1.3821	1.2535	1.7340
Reagan 2	1.3253	1.2522	1.7376
Bush 1	1.2841	1.2206	1.8041
Clinton 1	1.2954	1.2209	1.8102
Clinton 2	1.3016	1.2893	1.8262
Bush 2	1.3247	1.3127	1.8046
Total Mean	1.3265	1.2638	1.7675

Closing Address

Faith and Values in the Public Arena: An American Catholic in Public Life

James L. Oberstar, M.C.*

The test of a Catholic in the public arena—by which I mean elective office—is to preserve one's moral integrity and be true to one's conscience.

Toward that end, I have been guided by my upbringing in an iron ore miner's family in northern Minnesota, my undergraduate formation here at the College of St. Thomas, the works of John Courtney Murray, and the inspiration of Joseph Cardinal Bernardin.

David Hollenbeck, S.J., described the Jesuit theologian John Courtney Murray as "the preeminent practitioner of public theology and public moral discourse in the whole history of American Catholicism." Father Murray said that we are called to base our political views on our "particular understanding of the human person and the common good." As a compelling advocate of genuine dialogue and respectful public discourse on common issues in our pluralistic society, he attempted to enlighten the public on the moral rationale underlying proposed legislation. He wanted us to speak, but also to listen—qualities we need more of today.

Cardinal Bernardin, in what he elegantly called the "seamless garment of life," argued that it is not sufficient to be opposed to abortion: we must also support pre- and post-natal care of mother and child; we must advocate for education, health care, jobs with a livable wage, housing and food for the needy; oppose the death penalty; and resist unjust war.

Let me give a particular example: Jeb Magruder, a Watergate "plumber," in his book, *An American Life*, wrote:

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* Born in Chisholm, Minnesota, Jim Oberstar graduated *summa cum laude* from the College of St. Thomas in 1956, with majors in French and Political Science. Currently in his sixteenth term, Congressman Oberstar is the longest-serving member of the House of Representatives from the State of Minnesota. He is the senior Democrat on the Committee on Transportation and Infrastructure. Congressman Oberstar presented these remarks at the *University of St. Thomas Law Journal*'s symposium, "Can the Seamless Garment Be Sewn? The Future of Pro-Life Progressivism," Minneapolis, Minn., Mar. 11, 2005.

> No one forced me or the others to break the law. Instead . . . we ignored our better judgment out of a combination of ambition, loyalty, and partisan passion.
>
> If we consider how many people broke the law in the Watergate Affair, men who were usually model citizens in their private lives, we must ask if our failures do not somehow reflect larger failures in the values of our society.
>
> I, and many members of my generation, placed far too much emphasis on our personal ambitions, on achieving success as measured in materialistic terms, and far too little emphasis on moral and humanistic values.
>
> We had private morality, but not a sense of public morality.

That quality of "public morality" is uniquely tested where I work in our nation's capitol. There are few environments as pressure-filled and laden with temptation as the Washington scene, whether in the public arena, the private sector, or in academia. This place seethes with the beckoning finger of ambition; it values a beating-the-competition-at-all-costs kind of success, in Nuremberg-style amorality.

I believe we have to start each day with the question, "How will my faith influence my decision making today?" And end the day with, "How did my faith influence my decision making today?"

How many of my actions, day by day, does my faith inform? Do I do the right thing when I am under great pressure, or when I am in a threatening environment, regardless of the group's approval or disapproval?

When we arrive at our workplace, neither Christ nor the Holy Spirit meets us at the door to guide us through the day. We have to rely on our personal moral foundation, as informed by faith and the scriptures, in order to extend Sunday into the week; to discern the relationship between our human purpose and God's purpose; and to discern the relationship between the scriptures, the life we lead, and the work we perform.

Each of us, surely, can think of some difficult moral decision we've made; I'll share with you one of mine:

In 1984 I was caught up in an intense campaign for the endorsement of the Democratic-Farmer-Labor party to be its candidate for the United States Senate. A vital factor in winning the party's endorsement was support from the DFL's major pro-choice group, with whom I engaged in an extensive three and one half-hour dialogue, two-thirds of which was on abortion.

Toward the end of the meeting, one of the leaders said, "You are so right on all the social and economic issues, the international issues such as human rights, nuclear war, etc. We could support you if you would make the commitment not to speak out on this issue of abortion."

The words of Mathew's Gospel rang in my heart: "The devil took him up to a very high mountain and showed him all the kingdoms of the world,

promising, 'All these will I bestow on you if you prostrate yourself in homage before me.'" Jesus said, "Away with you, Satan."

I didn't quite put it that way, but I did say, "That, I cannot and will not do" and effectively abandoned a career in the U.S. Senate.

The French theologian, Louis Evely, wrote that prayer "is not us speaking to God, but listening to Him talking to you." Evely's central thought was that it is God who prays, or speaks, to us and mankind who does not heed His prayers.

In that spirit, our examination of conscience should be: Do I conduct my life so that the people I meet see our Father in me, or do they simply see my day-to-day face? Do I have enough faith to see God hidden in my neighbor, waiting to be loved in a special way?

Public office is essentially service to our fellow human beings. The Greeks called politics service to the *polis*. In my view, it requires, as does prayer, emptying ourselves of ourselves so that we can be totally open to the needs and call of others who cannot do so well for themselves. Christ, in the Gospels, is asking us to break into other people's lives, to busy ourselves with their needs—something my late wife, Jo, and our children and I did regularly, cooking gallons of spaghetti and sauce to be served at the Washington inner-city kitchens of So Others Might Eat (SOME).

In the Gospels, the condemned are accused not so much of violating the commandments as of failing to address themselves to those in this world living in misery. They are condemned less for what they have done than, as we say at Mass, for what they have failed to do.

In the mid-1980s, the Reagan White House set forth successive budgets of program cuts for the poor and tax cuts for corporations and wealthy individuals under the slogan "Private economic initiative is the source of wealth in our country."

The Catholic bishops countered with a pastoral entitled "Economic Justice for All." "The Christian ethic," they wrote, "is incompatible with the primary or exclusionary focus on maximization of profit. That so many people are poor in a nation as rich as ours is a social and moral scandal that we cannot ignore."

"Private charity and voluntary action are not sufficient to alleviate poverty." The federal government, the bishops continued, should sponsor "direct job creation programs, provide more support for economic planning, and cut military spending."

"People of all faith," they continued, "must measure their actions and be judged in the light of what they do for the poor, what they do to the poor, and what they enable the poor to do for themselves." These are the same bishops, by the way, who call for an end to abortion and are roundly criticized for it.

I served on the Budget Committee in those days when we grappled with mountainous deficits and Hobson's choices in cutting spending in order to reduce the deficit. I often reminded my committee colleagues of the words of Proverbs 22:13: "He who shuts his ear to the cry of the poor will, himself, also call and not be heard."

Read Leviticus 23:22: "When you reap the harvest of your field, you shall not be so thorough that you reap the field to its very edge, nor shall you glean the stray ears of your grain. These things you shall leave for the poor and the alien. I, the Lord, am your God."

If you are looking for a moral underpinning for public policy, you can find Food for Peace in those words, as well as the school lunch program, Meals on Wheels, congregate care.

Or if you look to Leviticus 25:25: "When your countryman becomes so impoverished beside you that he sells you his services, do not make him work as a slave."

Again, I think you can discern in those words the moral underpinnings of a minimum wage law.

When Pope John Paul II appealed to the World Bank, the International Monetary Fund, and the G-8 nations to forgive a large portion of third world debt, it was not a mere humanitarian gesture, it was a call based upon and inspired by Isaiah's decree of a Jubilee Year, an injunction to the Israelites to "let the fields lie fallow, arid forgive debts"—a moral imperative from the words of eternity.

In all that I undertake in public life, I am guided by the firm belief that, at the end of life, we will be judged, not by the volume of grain in our bins, not the size of our budget surplus, nor the might of our armies.

We will be judged by:
I was hungry and you gave me food.
I was thirsty and you gave me drink.
I was a stranger and you made me welcome.
I was naked and you clothed me.

When we nourish the human spirit, take in the dispossessed, shelter them with love, and clothe the naked with human dignity, we are surely doing the Lord's work on Earth in our daily lives, in our service of the *polis*.