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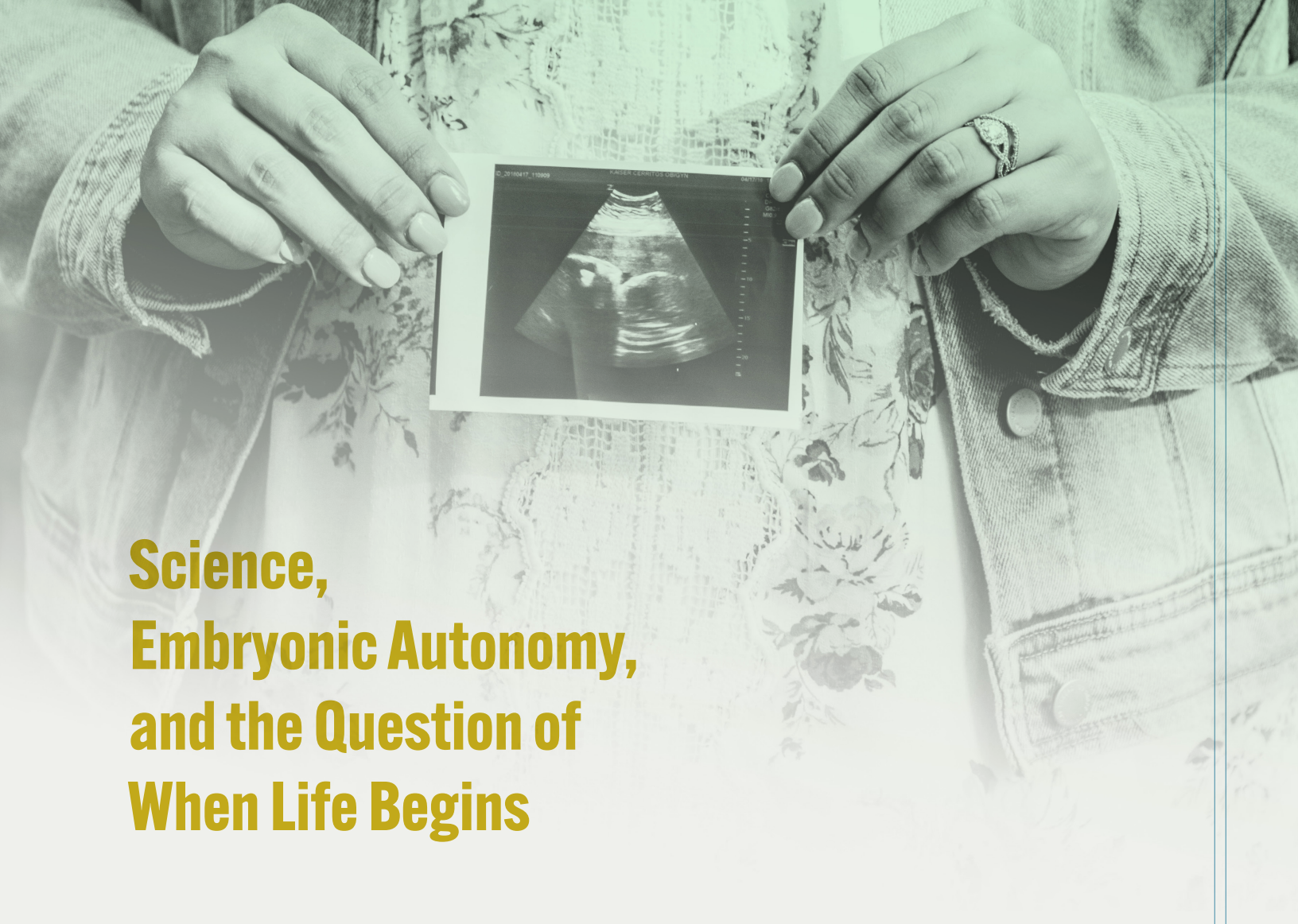
ABOVE
"Academy, 1890," drawing by
Themistocles von Eckenbrecher

The Mission of Public Discourse

Public Discourse is the online journal of the Witherspoon Institute, a 501(c)3 research center located in Princeton, New Jersey. We seek to enhance public understanding of the moral foundations of free societies by making the scholarship of our fellows and affiliated scholars available and accessible to a general audience.

Public Discourse authors write on a wide array of topics in a variety of academic disciplines. They are united by a common commitment to the idea that truth exists, is knowable, and should inform our politics and culture.

At *Public Discourse*, we believe that a free and thriving society is possible, but it depends on the existence of a virtuous citizenry—human beings, living in community, who seek to understand what is good and to live it out. The formation of virtuous human beings is a complex task, one that works best when families, religious communities, and schools work together to accomplish it. A just system of government and a dynamic economy is also necessary to protect the rights of citizens and ensure their material wellbeing. An online publication can never replace this network of interconnected institutions, but it can inform and inspire the people who comprise it. That is what we seek to do.



Science, Embryonic Autonomy, and the Question of When Life Begins

Ana Maria Dumitru

When does life begin? According to the [United States Supreme Court](#), a number of politicians including [President Barack Obama](#), and a variety of other sources, there is still much debate in the realms of science and medicine as to how to answer this charged question. A popular deflection is to say something like “It’s above my pay grade to answer that,” or “If scientists are still debating this, who am I to speculate?”

Originally published
January 24, 2017

[VIEW ONLINE](#)

The truth is that science already *has* answered this question, loud and clear. It’s really pretty simple. You take an egg from a female and a sperm cell from a male. The sperm penetrates the egg. And now you have one cell with the complete amount of genetic material needed for everything a human could ever want to do.

Even this may not be enough to convince skeptics. A few months ago, I was debating the issues of when life begins and the autonomy of the early embryo with some of my colleagues. I was surprised to hear that they still rely on the party slogan: “Early on, it’s

just a clump of cells.” In the lab where I work, we study cell division. As scientists, my colleagues must concede that embryos are made up of living cells, but they don’t accept the embryo as a living organism. If the early embryo is “just a clump of cells,” then you can justify abortion. By this logic, it’s not an autonomous being, and it’s definitely not a human person yet. It’s just a few cells growing in the mother’s body, and so the mother can choose to get rid of those cells if she wants to.

But when does that new cell become an autonomous organism? If the embryo is really *just a clump of cells*, then those cells must rely on external guidance in order to survive, right? If it’s really *just a clump of cells*, then those cells have no control and no autonomy. A simple clump of unimportant, disorganized cells would be akin to some random collection of differentiated cells grown on a plastic plate—they can divide if you make them, but there isn’t any internal structure or organization present.

The Autonomy of the Embryo

If we define organismal autonomy to mean freedom from external control, it turns out that we can identify precisely when an embryo satisfies the definition of autonomy: from the very beginning. [A recent study](#) published by Marta N. Shahbazi and colleagues from the UK demonstrates that this newly formed cell knows what to do post-conception *regardless of whether or not it receives signals from a host uterus*. Shahbazi and colleagues demonstrate in their study that a fertilized egg—also known as a zygote, the “product of conception,” the early embryo, or one of many other descriptive terms—is *an autonomous living being*. This one little cell, with its complete genetic content, can *and does* begin to divide and to grow, even in an experimental dish in an incubator in the closet space of some unmarked lab.

Shahbazi and colleagues thawed out frozen embryos that were donated to their research group from an IVF clinic. The embryos had been frozen after fertilization, and they were at various stages of first-week (pre-implantation) development when they were thawed. Shahbazi and colleagues then grew these embryos past the point at which they would normally implant themselves into the uterine lining, using an *in vitro* culture system of their own design. They reported that these cells can successfully organize themselves despite not being implanted in a uterus. This means that, as we suspected, embryos know what they’re supposed to do to live, and they try to live, whether they’re in their mother or not. As the authors state in the paper, their culture system “allows human embryos to undergo the pre- to post-implantation transition *in vitro*, in the absence of any maternal tissues.”

Embryos know what they’re supposed to do to live, and they try to live, whether they’re in their mother or not.

Programmed for Survival

The reason the Shahbazi study is so critical is because they aren't *forcing* these embryos to divide, nor are they giving them any instructions. When we work with non-embryonic cells in our lab, we refer to these cells as "immortalized," because they've been manipulated such that they will continue to divide when we grow them on plastic dishes in our incubators. But the embryos grown in this experiment were not manipulated or forced to keep going. They grew of their own accord.

A newly fertilized embryo may not know whether or not it is "wanted," but it does know that it wants to live. In fact, the embryo has two big missions from its moment of conception: one is to start dividing, and the other is to get from the mother's fallopian tube down into the lining of her uterus. The embryo needs to implant successfully because it only has enough organismal resources for a limited number of days—it needs to nestle in to the nutrient-rich endometrium of its mother in order to acquire more food for the journey. This is why most "contraceptive" drugs and devices actually work as abortifacients. Rather than preventing the sperm from fertilizing the egg, they prevent the embryo from properly implanting. Without the nutrients normally provided by implantation, the embryo will die. But, as Shahbazi and her colleagues have demonstrated, if you supplement the embryo with nutrients, it will continue to fight for life.

We already knew that the developing embryo communicates with the mother through signals and nutrient exchange in the bloodstream, but now we know that the embryo is programmed for survival from day one. Whether or not mom is around, the embryo has the equipment it needs to drive its own growth forward. And so in the absence of any signals from a maternal uterus, the embryo defaults to a pro-survival, pro-growth, *pro-life* trajectory.

It's Time to Reevaluate Embryo-Destructive Research

The rather chilling implications of these findings should make us reevaluate the premises on which we allow research to be conducted on human embryos. This work eliminates the possibility of saying that the early embryo is not an organism or is not autonomous. In fact, the authors refer to the "critical remodeling events" of these embryos as "embryo-autonomous."

And yet, even within this manuscript, the juxtaposition between the text of the article and its ethics statement is jarring. This contrast vividly illustrates the discrepancy between what science is saying and what people are choosing to hear. "Implantation is a milestone in human development," write the authors in the discussion section. "Informed consent was obtained from all couples that donated spare embryos following

IVF treatment,” reads the ethics statement. “We are grateful to the patients donating their embryos,” the authors write in their acknowledgments.

On one hand, the data show that these embryos are autonomous human beings who are simply in an early stage of development. On the other hand, the licensing ethics boards and authors themselves justify the destruction of these embryos by categorizing them as the property of the couples who donated them. The authors act as if the embryos’ empirically verified capacity for autonomous development need not translate to the recognition of the autonomy of human embryos.

No scientist who has ever studied cells could say that a dividing cell is not alive. And now, no scientist can make the claim that a growing embryo lacks organismal autonomy. The next question is whether organismal autonomy informs our legal and ethical definitions of personhood.

Back in 2008, well before the newly published Shahbazi paper, Robert P. George and Christopher Tollefsen relied on other embryological studies in their book [Embryo: A Defense of Human Life](#). There they reasoned: “Nothing extrinsic to the developing organism itself acts on it to produce a new character or new direction of growth.” This claim rapidly unnerved critics, as evidenced by William Saletan’s [New York Times Sunday Book Review](#) response, “Nobody with a womb would describe pregnancy this way.” Saletan implied that George and Tollefsen had cherry-picked from embryology textbooks in order to fit science into their reasoning. At that point, many scientists viewed the early embryo as part of a system controlled by the mother, and so perhaps there was a degree of misunderstanding of the philosophical point George and Tollefsen were making.

But as George and Tollefsen and others (such as John Finnis and Patrick Lee) have explained, organismal autonomy in animals and personhood are not interchangeable terms. Not all animals, after all, are persons, even though they are autonomous organisms. But George and Tollefsen highlight that an organism with all of the capacities to become a recognizable (and extra-uterine) person is in fact *already* a person, because even if the organism’s capacities are not yet fully developed, they are still present in the early embryo. Personhood is determined, they argued, not by immediately exercisable capacities, but by radical (root) capacities. So a human embryo has all the same radical capacities as the fully developed human adult. Both are persons.

Saletan’s response illustrates a common misunderstanding of this distinction. He implies that an embryo does not qualify for personhood. Essentially, he makes no distinction between immediate biological functioning and personhood. And as a result, Saletan claims that we “don’t owe [an embryo] the same respect we owe one another,” arriving

No scientist who has ever studied cells could say that a dividing cell is not alive.

at this conclusion through the type of reasoning found in the acorn and oak tree analogy proposed by Michael Sandel. (Briefly: although every oak tree was once an acorn, no one gets bent out of shape when an acorn is lost, even though the acorn has the capacity to become an oak tree).

But as [Robert George and Patrick Lee point out](#), we value instances of the oak species because of their instrumental value, and thus we value an oak tree more than an oak acorn, even though they are the same entity. But we value instances of the human species because of their *intrinsic* value, and thus we value all human beings at all stages of development *equally*. Human beings don't acquire personhood at some developmental milestone.

Now that the Shahbazi study has demonstrated, as George and Tollefsen reasoned, that the early embryo has all the capacities to develop its organism autonomously, it would be interesting to know whether this would be sufficient evidence for Saletan to rethink his stance on personhood. The question for all of us now is whether we will start acknowledging that the biological autonomy of embryos should translate into ethical and legal personhood.

So let's stop deflecting. It's time to own up to the truth. Science has already affirmed what we have long since suspected: we can call them fertilized eggs, zygotes, morulas, blastocysts, products of conception, embryos, or fetuses, but that doesn't change reality. And that reality is this: they are autonomous humans from the very beginning.

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Image by Anna Sullivan

Abortion, Slavery, and Constitutional Meaning

Nathaniel Peters

If abortion is murder, those who would tolerate it are no more worthy of respect than those who would tolerate slavery.” So wrote Michael Sandel in the *The New Republic* in 1996. Sandel is pro-choice and believes that, in most circumstances, abortion should be a protected liberty. But even if he disagreed with the proposition that abortion is murder, he still saw an analogy between the nineteenth-century debate over slavery and the twentieth-century (and now twenty-first-century) debate over abortion.

In [Slavery, Abortion, and the Politics of Constitutional Meaning](#), Justin Buckley Dyer offers an analysis of the way in which this analogy plays out in scholarly debates and American public life. While scholars and specialists may have already encountered much of this ground, they will benefit from a detailed and explicit analysis of the parallels between the logic of legal abortion and the logic of legal slavery—and the ways in which

Originally published
May 13, 2014

[VIEW ONLINE](#)

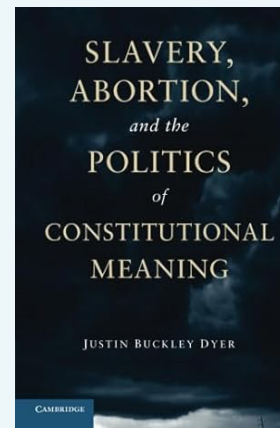
they both brought contradictions into laws and public debate. All readers will benefit from Dyer's account of the ways in which the logic of abortion depended on history to justify *Roe v. Wade* and subsequent court decisions. As Dyer vividly demonstrates, some of that history was dramatically misused.

In the book's first part, Dyer argues that "the natural law tradition . . . provided the intellectual scaffolding for both the Fourteenth Amendment and state anti-abortion laws (many of which were written during the era of Reconstruction)." When influential thinkers in the early twentieth century rejected this tradition, the Fourteenth Amendment—originally designed to protect the civil rights of newly freed slaves—became the vehicle for overturning state abortion laws.

Dyer is at his most original and scholarly in his contribution to the debate over substantive due process and abortion. The Fifth Amendment prohibits the federal government from depriving any person of "life, liberty, or property without due process of law." In [Dred Scott](#), the Supreme Court ruled that a legislative act barring slavery from federal territories "could hardly be dignified with the name due process of law." In other words, the Court viewed the prohibition of slavery as so patently unjust that, to the justices, it clearly fell outside the scope of the due process of the law.

After the Civil War, Dyer points out, the Fourteenth Amendment reproduced the Fifth Amendment's due process clause and applied it to state governments. In *Lochner v. New York*, the Court struck down a New York law regulating the number of hours bakers were permitted to work during the week on the basis of the natural right to freedom of contract. According to a common critique from jurists such as Robert Bork, the Supreme Court repeated the mistake it made in *Dred Scott* when it ruled in *Lochner* and *Roe*: It illicitly put a substantive gloss on the due process clause to strike down a legitimate law.

But, Dyer argues, contemporary opponents of *Dred Scott* criticized the decision for its view of slaves as property, not its substantive view of due process. For them, natural rights to life, liberty, and property provided the substance that could not be violated by the due process of the law. Dyer further argues that the road to *Roe* lies not in *Lochner*'s substantive understanding of the right to contract—as Bork contends—but in Oliver Wendell Holmes's dissent from *Lochner*, which dismissed such rights altogether. For Holmes, the fundamental principles of the law were not substantive and moral, but "prophecies" or "systematized prediction" of how the public authority would react to a set of circumstances.



Slavery, Abortion, and the Politics of Constitutional Meaning

By Justin Buckley Dyer
Cambridge University Press
Published June 2013

In his [decision in Roe](#), Justice Harry Blackmun emphasized that the majority of the Court was not trying to resurrect *Lochner*'s natural-rights jurisprudence. Rather, he stated that Jane Roe was attacking Texas' abortion law on the grounds that it "improperly invaded a right" protected, in part, by "the concept of personal 'liberty' embodied in the Fourteenth Amendment's Due Process Clause." The question then became whether a woman could or could not legally procure an abortion when the Fourteenth Amendment was drafted. Relying on New York Law School professor Cyril Means's arguments in "[The Phoenix of Abortional Freedom](#)," Blackmun concluded that "At least with respect to the early stage of pregnancy, and very possibly without such a limitation, the opportunity to make this choice was present in this country well into the 19th century." Likewise, he wrote, "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." In adjudicating the controversy, Blackmun wrote, the Court had to adopt a position of neutrality on the question of when life begins.

Here, Dyer concludes, we see the real parallel between *Dred Scott* and *Roe*: In both cases, "the Court treated biological human status as irrelevant to the question of constitutional personhood while constructing a legal community of constitutional persons that did not necessarily overlap with the population of natural persons."

It is perhaps notable, then, that Means cited *Dred Scott* as an appropriate precedent for *Roe*. In *Roe*, the Court needed to provide a uniform national definition of "persons" as it had to do in *Dred Scott* with "citizens of different states." By turning to the "legislation and histories of the times," Justice Taney concluded that "all men are created equal" did not include those of dark skin. Likewise, Means argued, we must turn to the way in which the drafters of the Constitution and Fourteenth Amendment understood abortion and the beginnings of human life. By examining the way in which the word "person" was used in several clauses of the Constitution—such as the clause outlining representation in the House of Representatives—and by consulting a medical textbook of the time, Means concluded that the Framers considered fetuses to be non-persons.

But by returning to the primary sources, Dyer deftly shows how Means misused them for ideological purposes. A few pages after Means's citation, the medical textbook he used declared that human life begins "immediately after conception" and concluded that abortions were the destruction of embryos that "might live, and become of use to mankind, and as they may be supposed indeed from the time of conception, to be living animated beings, there is no doubt but the destruction of them ought to be considered

The Supreme Court repeated the mistake it made in Dred Scott when it ruled in Lochner and Roe.

a capital crime.” In short, Dyer concludes, Means’ use of the medical treatise to prove the contrary was “either deliberately dishonest or grossly negligent.”

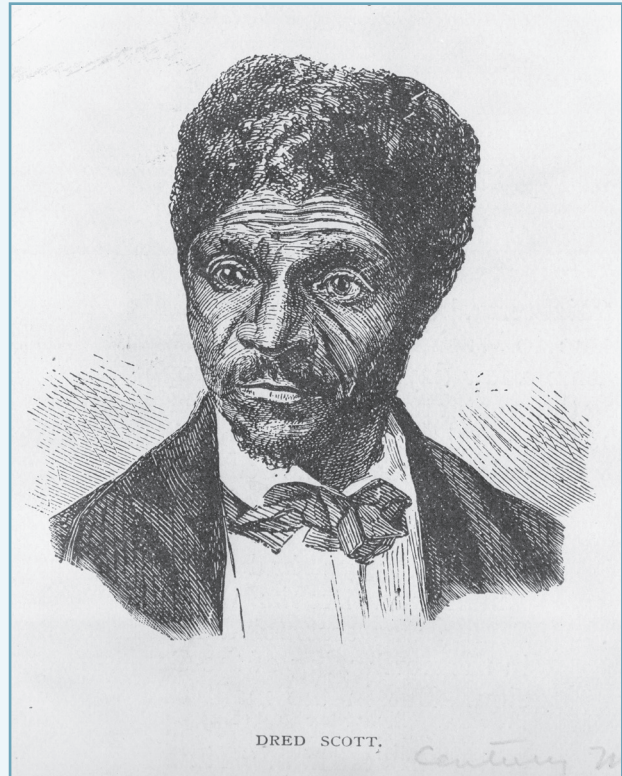
Means also argued that abortion was considered to be a common-law liberty and that the primary purpose of nineteenth-century anti-abortion legislation was to protect the lives of women, not babies, from dangerous medical procedures. However, Dyer demonstrates that Means’s use of history was selective to the point of inaccuracy, if not mendacity. As Blackstone put it, the right to life, “inherent by nature in every individual,” “begins in contemplation of law as soon as an infant is able to stir in his mother’s womb.” Furthermore, an 1867 Ohio Senate committee report gave the following reason for passing an anti-abortion statute: “The willful killing of a human being, at any stage of its existence, is murder.” Dyer continues: “The men who voted to approve this bill *and* ratify the Fourteenth Amendment in the same legislative session apparently saw no contradiction between the two.”

In the decades after *Roe*, historians filed briefs in abortion cases similarly arguing that the purpose of anti-abortion laws was not to protect the unborn and that abortion was common and legal throughout American history. Following the work of scholars such as Gerard Bradley and Joseph Dellapenna, Dyer shows how these briefs contradicted the previous research of some of the scholars who signed them. As one brief’s organizer put it, there was “a tension between truth-telling and advocacy.”

To put it less politely: they lied.

Dyer’s writing becomes more overtly pro-life as he argues that these lies provide a foundation for “constitutional disharmony” in our jurisprudence. If abortion by dilation and extraction is legal, why should infanticide remain illegal? Are a few inches enough to make a person? If a baby is a person because her mother wants her, why can’t an unwanted newborn be killed? Similar contradictions appeared when slaves were considered non-persons—or, in the famous constitutional example, three-fifths of a person.

In the book’s final pages, Dyer analyzes what lessons the abolitionist movement can give to modern pro-lifers. Dyer considers those misguided pro-lifers who, like the radical abolitionist John Brown, have decided to kill for the cause. Instead, contemporary



An 1887 print of Dred Scott published by the Century Company (Library of Congress).

pro-lifers should imitate the successful strategies of mainstream abolitionists in fighting for their cause: underscoring the humanity of those whose humanity is denied, providing compassionate care for those affected, naming the lies that dehumanize and kill, and tirelessly arguing for the truth about who “counts” as a human person.

Pro-lifers already know that the slavery analogy is a rhetorically powerful one. Because of the work of Justin Buckley Dyer, they can appreciate its accuracy all the more.

Nathaniel Peters is Contributing Editor of Public Discourse and Director of the Morningside Institute.

Transgenderism

A PATHOGENIC MEME

Paul McHugh

For forty years as the University Distinguished Service Professor of Psychiatry at Johns Hopkins Medical School—twenty-six of which were also spent as Psychiatrist in Chief of Johns Hopkins Hospital—I’ve been studying people who claim to be transgender. Over that time, I’ve watched the phenomenon change and expand in remarkable ways.

A rare issue of a few men—both homosexual and heterosexual men, including some who sought sex-change surgery because they were erotically aroused by the thought or image of themselves as women—has spread to include women as well as men. Even young boys and girls have begun to present themselves as of the opposite sex. Over the last ten or fifteen years, this phenomenon has increased in prevalence, seemingly exponentially. Now, almost everyone has heard of or met such a person.

Publicity, especially from early examples such as “Christine” Jorgenson, “Jan” Morris, and “Renee” Richards, has promoted the idea that one’s biological sex is a choice, leading to widespread cultural acceptance of the concept. And, that idea, quickly accepted in the 1980s, has since run through the American public like a revelation or “meme” affecting much of our thought about sex.

The champions of this meme, encouraged by their alliance with the broader LGBT movement, claim that whether you are a man or a woman, a boy or a girl, is more of a disposition or feeling about yourself than a fact of nature. And, much like

Originally published June 10, 2015

[VIEW ONLINE](#)

any other feeling, it can change at any time, and for all sorts of reasons. Therefore, no one could predict who would swap this fact of their makeup, nor could one justifiably criticize such a decision.

At Johns Hopkins, after pioneering sex-change surgery, we demonstrated that the practice brought no important benefits. As a result, we stopped offering that form of treatment in the 1970s. Our efforts, though, had little influence on the emergence of this new idea about sex, or upon the expansion of the number of “transgendered” among young and old.

Olympic Athlete Turned “Pin-Up” Girl

This history may clarify some aspects of the latest high-profile transgender claimant. Bruce Jenner, the 1976 Olympic decathlon champion, is turning away from his titular identity as one of the “world’s greatest male athletes.” Jenner announced recently that he “identifies as a woman” and, with medical and surgical help, is busy reconstructing his physique.

I have not met or examined Jenner, but his behavior resembles that of some of the transgender males we have studied over the years. These men wanted to display themselves in sexy ways, wearing provocative female garb. More often than not, while claiming to be a woman in a man’s body, they declared themselves to be “lesbians” (attracted to other women). The photograph of the posed, corseted, breast-boosted Bruce Jenner (a man in his mid-sixties, but flaunting himself as if a “pin-up” girl in her twenties or thirties) on [the cover of Vanity Fair](#) suggests that he may fit the behavioral mold that Ray Blanchard has dubbed an expression of “autogynephilia”—from gynephilia (attracted to women) and *auto* (in the form of oneself).

The Emperor’s New Clothes

But the meme—that your sex is a feeling, not a biological fact, and can change at any time—marches on through our society. In a way, it’s reminiscent of the Hans Christian Andersen tale, *The Emperor’s New Clothes*. In that tale, the Emperor, believing that he wore an outfit of special beauty imperceptible to the rude or uncultured, paraded naked through his town to the huzzahs of courtiers and citizens anxious about their reputations. Many onlookers to the contemporary transgender parade, knowing that a disfavored opinion is worse than bad taste today, similarly fear to identify it as a misapprehension.

I am ever trying to be the boy among the bystanders who points to what’s real. I do so not only because truth matters, but also because overlooked amid the hoopla—enhanced now by Bruce Jenner’s celebrity and Annie Leibovitz’s photography—stand many victims. Think, for example, of the parents whom no one—not doctors, schools, nor even churches—will help to rescue their children from these strange notions of being transgendered and the

problematic lives these notions herald. These youngsters now far outnumber the Bruce Jenner type of transgender. Although they may be encouraged by his public reception, these children generally come to their ideas about their sex not through erotic interests but through a variety of youthful psychosocial conflicts and concerns.

First, though, let us address the basic assumption of the contemporary parade: the idea that exchange of one's sex is possible. It, like the storied Emperor, is starkly, nakedly false. Transgendered men do not become women, nor do transgendered women become men. All (including Bruce Jenner) become feminized men or masculinized women, counterfeits or impersonators of the sex with which they "identify." In that lies their problematic future.

When "the tumult and shouting dies," it proves not easy nor wise to live in a counterfeit sexual garb. The [most thorough follow-up of sex-reassigned people](#)—extending over thirty years and conducted in Sweden, where the culture is strongly supportive of the transgendered—documents their lifelong mental unrest. Ten to fifteen years after surgical reassignment, the suicide rate of those who had undergone sex-reassignment surgery rose to twenty times that of comparable peers.

How to Treat Gender Dysphoria

So how should we make sense of this matter today? As with any mental phenomenon, what's crucial is noting its fundamental characteristic and then identifying the many ways in which that characteristic can manifest itself.

The central issue with all transgender subjects is one of assumption—the assumption that one's sexual nature is misaligned with one's biological sex. This problematic assumption comes about in several different ways, and these distinctions in its generation determine how to manage and treat it.

Based on the photographic evidence one might guess Bruce Jenner falls into the group of men who come to their disordered assumption through being sexually aroused by the image of themselves as women. He could have been treated for this misaligned arousal with psychotherapy and medication. Instead, he found his way to surgeons who worked him over as he wished. Others have already commented on his stereotypic caricature of women as decorative "babes" ("I look forward to wearing nail polish until it chips off," he said to Diane Sawyer)—a view that understandably infuriates feminists—and his odd sense that only feelings, not facts, matter here.

The idea that exchange of one's sex is possible, like the storied Emperor, is starkly, nakedly false.

For his sake, however, I do hope that he receives regular, attentive follow-up care, as his psychological serenity in the future is doubtful. Future men with similar feelings and intentions should be treated for those feelings rather than being encouraged to undergo bodily changes. Group therapies are now available for them.

Most young boys and girls who come seeking sex-reassignment are utterly different from Jenner. They have no erotic interest driving their quest. Rather, they come with psychosocial issues—conflicts over the prospects, expectations, and roles that they sense are attached to their given sex—and presume that sex-reassignment will ease or resolve them.

The grim fact is that most of these youngsters do not find therapists willing to assess and guide them in ways that permit them to work out their conflicts and correct their assumptions. Rather, they and their families find only “gender counselors” who encourage them in their sexual misassumptions.

Those with Gender Dysphoria Need Evidence-Based Care

There are several reasons for this absence of coherence in our mental health system. Important among them is the fact that both the state and federal governments are actively seeking to block any treatments that can be construed as challenging the assumptions and choices of transgendered youngsters. “As part of our dedication to protecting America’s youth, this administration supports efforts to ban the use of conversion therapy for minors,” said [Valerie Jarrett](#), a senior advisor to President Obama.

In [two states](#), a doctor who would look into the psychological history of a transgendered boy or girl in search of a resolvable conflict could lose his or her license to practice medicine. By contrast, such a physician would not be penalized if he or she started such a patient on hormones that would block puberty and might stunt growth.

What is needed now is public clamor for coherent science—biological and therapeutic science—examining the real effects of these efforts to “support” transgenering. Although much is made of a rare “intersex” individual, no evidence supports the claim that people such as Bruce Jenner have a biological source for their transgender assumptions. Plenty of evidence demonstrates that with him and most others, transgenering is a psychological rather than a biological matter.

What is needed now is public clamor for coherent science examining the real effects of these efforts to “support” transgenering.

In fact, gender dysphoria—the official psychiatric term for feeling oneself to be of the opposite sex—belongs in the family of similarly disordered assumptions about the body, such as anorexia nervosa and body dysmorphic disorder. Its treatment should not be directed at the body as with surgery and hormones any more than one treats obesity-fearing anorexic patients with liposuction. The treatment should strive to correct the false, problematic nature of the assumption and to resolve the psychosocial conflicts provoking it. With youngsters, this is best done in family therapy.

The larger issue is the meme itself. The idea that one's sex is fluid and a matter open to choice runs unquestioned through our culture and is reflected everywhere in the media, the theater, the classroom, and in many medical clinics. It has taken on cult-like features: its own special lingo, internet chat rooms providing slick answers to new recruits, and clubs for easy access to dresses and styles supporting the sex change. It is doing much damage to families, adolescents, and children and should be confronted as an opinion without biological foundation wherever it emerges.

But gird your loins if you would confront this matter. Hell hath no fury like a vested interest masquerading as a moral principle.

Paul McHugh, MD, is University Distinguished Service Professor of Psychiatry at Johns Hopkins Medical School and the former psychiatrist in chief at Johns Hopkins Hospital. He is the author of *The Mind Has Mountains: Reflections on Society and Psychiatry*.



Image by Matthieu Petel

Seven Things I Wish My Pastor Knew About My Homosexuality

Jean C. Lloyd

Over thirty years have passed since same-sex attraction rushed up from deep within my twelve-year-old frame. This attraction was unbidden and unwanted, yet simultaneously forceful and compelling.

As a Christian, the conflict between my sexuality and my faith would become the deepest and most intense of my life. Now in my forties, I've gone from being closeted to openly lesbian to celibate to heterosexually married. The fact that I need to qualify my marital union as a heterosexual one reveals how much the cultural landscape has changed in that time—just as much as my own personal landscape has, though in very different ways.

Originally published
December 10, 2014

[VIEW ONLINE](#)

During my upbringing, I heard a few fiery sermons on homosexuality. These days, I hear declarations of love instead. They make me shout for joy. Amen! It always should have been so! At the same time, however, many pastors have begun accompanying this love with an eschewal of Biblical sexual morality as oppressive, unreasonable, or unkind. Hence, loving homosexual persons also comes to entail affirming and encouraging them in same-sex sexual relationships and behaviors.

Although I appreciate the desire to act in love, this isn't the genuine love that people like me need. Love me better than that! Thomas Aquinas scholar [Josef Pieper](#) put it this way:

love is not synonymous with undifferentiated approval of everything the beloved person thinks and does in real life. . . . [nor is it] the wish for the beloved to feel good always and in every situation and for him to be spared experiencing pain or grief in all circumstances. "Mere 'kindness' which tolerates anything except [the beloved's] suffering" has nothing to do with real love. . . . No lover can look on easily when he sees the one he loves preferring convenience to the good.

Loving me with this kind of love is neither quick nor easy. But knowledge and truth can help us both stand against the growing tide of moral capitulation. In light of this, here are seven things I wish you knew about homosexuality.

- 1. I wish you knew that just because I didn't choose this orientation, it doesn't follow that I was "born this way" or that "God created me gay."** While genetics influences these traits, there is not a fixed predetermination. It is not hardwired like eye or skin color.¹ I can look back and understand where it came from in my own life. Of course, others' experiences may be different from mine. But ultimately, the etiology doesn't matter. Same-sex sexual activity is outside the design and will of the good plan of God. To claim otherwise requires ignoring Scripture, historical Christian authority, and natural law. So I need help in living chastely, regardless of how my same-sex desires came to be.
- 2. I wish you knew a better way to help me honor my body by living in accord with the Creator's design.** I was born this way: female. God did create me a woman. Please don't fall into the gnostic dualism that divides my spiritual life from the life I now live in my body. Christ became incarnate; my very body is now part of His body, the temple of the Holy Spirit. To act against its design in same-sex sexual action harms

¹ Understand the significance of the twin studies. Identical twins should have 100 percent concordance for sexual orientation if it is genetically predetermined and involves no post-natal factors. In fact, these concordance rates are quite low. See, for example, Bailey, J. M., Dunne, M. P., & Martin, N. G. (2000). "Genetic and environmental influences on sexual orientation and its correlates in an Australian twin sample." *Journal of Personality and Social Psychology*, 78, pp. 524-36.

the dignity of my body. For my homosexually attracted brothers, same-sex sex harms their bodies even more because of their physiological design and [the physical effects](#) of going against that design. These bodies will be raised again. They matter.

3. **I wish you knew that you aren't helping me follow Jesus either by demanding that my attractions change or by not allowing them to change.** No one can promise me that my attractions will change. Jesus certainly didn't. But don't deny me that possibility either. ([Especially if I'm an adolescent!](#)) Both secular science and human experience attest to [sexual fluidity](#) and the [potential for change](#).
4. **I wish you knew a better way to define "change."** Over many years, my experience of same-sex attraction went from being a continual fire to an occasional flicker. A man who still experiences same-sex attraction but is happily married to a woman, where he saw no possibility of a heterosexual relationship before, has indeed changed.
5. **I wish you knew that I should be credited with the same moral agency and responsibility as everyone else in the Christian community.** If unmarried heterosexuals are called to celibacy and are presumed in Christ to have the power to live out His commands, then so should I be. To treat me according to a different standard is to lower my dignity before God. I too am called to be holy.
6. **I wish you knew that God teaches more about homosexual conduct than "Don't."** He *does* teach that, but the truth about the body, sex, and the design and *telos* of creation reveals so much more.
7. **I wish you knew that it honors neither God, nor me, to apologize for His plan or design.** I appreciate empathy for the pain my misdirected longings may cause, but God is not arbitrarily withholding something good from me. He is showing me what leads to life and human flourishing and is keeping me from that which will harm me. "Let love be without dissimulation." Love me and tell me the truth.

May I make two requests? Continue to love me, but remember that you cannot be more merciful than God. It isn't mercy to affirm same-sex acts as good. Practice compassion according to the root meaning of "compassion": *Suffer with me*. Don't compromise truth; help me to live in harmony with it.

I'm asking you to help me take up my cross and follow Jesus.

Jean C. Lloyd, PhD, is a teacher, a writer, and a happily married mother of two school-age children. She is currently writing a book entitled *Love Would Not Allow What Love Could Not Restore*.

Love, Liberal Education, & *the Secret of Human Identity*

Anthony Esolen

Recent events at my school, Providence College, have led me to ponder the matter of “identity” and how the politics of identity bears on a Catholic liberal arts education.

One of my favorite moments in all of literature comes, as so many of them do, on the Mountain of Purgatory. Dante and Virgil and their newfound friend, the ancient Roman poet Statius, have entered the terrace where the vice of gluttony is purged away. The souls of the gluttons suffer a purifying hunger and thirst that emaciates them down to the bone, so Dante cannot recognize anyone by face. One of the souls, however, recognizes Dante, foretells some consolation he will find in the city of Lucca when he must go into exile, and asks a question that means everything to the art of poetry that he practiced on earth.

Originally published
December 1, 2016

[VIEW ONLINE](#)



The nineteenth-century French artist Gustave Doré's depiction of Dante's encounter with Bonagiunta of Lucca from his 1857 wood-engravings illustrating Dante's *Divine Comedy*

His name is Bonagiunta of Lucca, and he had criticized Dante, Dante's elder friend Guido Cavalcanti, and their predecessor Guido Guinizelli for bringing into poetry the terms and the ideas of the schools—that is, for writing love poetry steeped in philosophy and theology. Maybe we can call Bonagiunta a flat-footed practical man of love poetry, not apt to want to soar with Dante to the heights of intellectual speculation.

Dante's sweet revenge upon Bonagiunta is to put him in Purgatory and to revise his opinion of Dante. Here is the exchange, beginning with Bonagiunta:

*“But do I see the introducer of
the new songs, and the verses that begin,
‘Ladies who have intelligence of love?’
Said I to him, ‘I’m one who takes the pen
when Love breathes wisdom into me, and go
finding the signs for what He speaks within.’”*

The last lines, in Italian:

*“I mi son un che, quando
Amor mi spira, noto, e a quel modo
ch’ e’ ditta dentro, vo significando.”*

I know of no more concise and powerful declaration of a poet’s heart and mind and aim than this one. Dante portrays himself at once in a humble and an exalted way: it is Love who *breathes into* him, *spira*, the very breath of the Holy Spirit. All that Dante does is to take note of that wisdom and to go about *significando*, sign-finding, submitting himself to be raised up, so that he can write the line that changed love poetry in Europe for hundreds of years. “Ladies who have intelligence of love” might also be translated as “Ladies who have the intellect for love” or “Ladies who know by insight what love is.” Dante is speaking here of the *intellectus*, that faculty in man that strikes to the heart of truth with an immediate vision, leaving discursive reason and empirical observation worlds and worlds behind.

Instruction in Love

I am thinking of this scene today because this instruction in love, by Love, and for love, is as far from anything that our schools now do as is the highest mountain from the bottom of the sea, or the heavens from the earth. I’ve written a great deal in favor of such an amatory education and against the crass and ultimately useless utilitarianism of such things as the Common Curse, which is like the Curse of Adam raised to the third power: *In the sweat of thy brow thou shalt eat dust*. I have wondered aloud whether the authors of that curriculum unfit for higher robots, let alone for human children, ever knew what wonder was, so intent they were to shut up in a closet all the noblest thoughts and aspirations of the human soul. They have the counting-house mind of Ebenezer Scrooge, but without the humor, and without any prospect of specters coming to haunt and save them. Poetry? Bah, humbug!

But something else is on my mind now—another good that poetry brings, another way that a truly Catholic or Christian education in the liberal arts can raise the soul to see a glimmer of what Dante wishes for us to see. I have become painfully aware of the chasm between those who love the liberal arts, what I have called the free-making arts, and those whose utilitarianism or whose inverted religion has taken the form of identity politics.

*What happens
when there
is not a path
aimed toward
heaven, with
guides along
the way who
lift up your
heart when
they cry
“Gloria in
excelsis Deo”?*

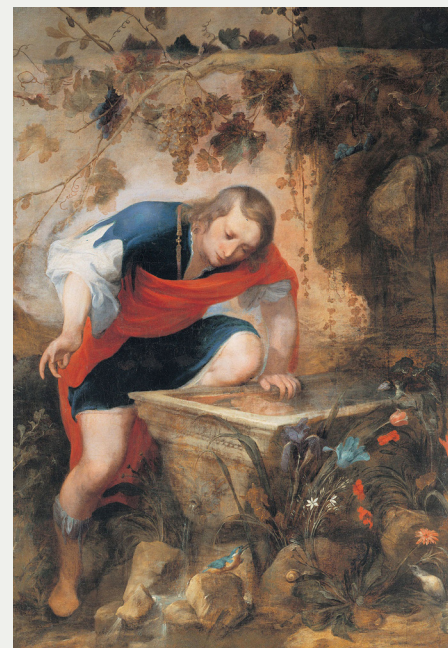
When I was young, I wanted to know Dante partly because I wanted to know everything, but mainly because I was in love with poetry and wanted to learn the craft from the masters. I was hungry, and it never occurred to me to think that the grandson of coal miners in America could not lay claim to Dante, or Shakespeare, or Caravaggio, or Aristotle, or any artist or thinker or mystical seer, just because they lived long ago, came from another part of the world, spoke a different language, and were nourished in cultures that were so distant from mine. If they wrote in a different language, I might learn that language; if they came from another part of the world, I studied its geography; if other cultures nourished them, I tried to place myself in their midst—tried to walk with Dante along the streets of Florence, that city riven with partisan passions and all too often running with blood. I did not need these works to affirm my identity. I was not even aware I had an identity, other than that I was a certain young man, American by birth, and by the grace of God Roman Catholic and a fan of the Saint Louis Cardinals.

But I have come to see that many of my students now have no such grounding, no such matter-of-course assurance of who and what they are. If the self is nourished by culture, and culture implies deep roots and carefully tended soil, what happens to the self when the topsoil is stripped bare? And stripped bare it has been. Young people have been starved of beauty: the great majority of them do not even recognize the names of the greatest of English poets, of Milton and Wordsworth and Tennyson, let alone know their songs. They have been taught almost nothing of our nearly three-thousand-year-old heritage of art, no classical or sacred music, no folk music, and no popular music older than a generation. Even many of those who regularly attend Mass on Sunday show no deep familiarity with Scripture. For those who do not darken the church doors, the gospels themselves may as well have come from another planet.

To put it another way, what happens when there no longer is a Mountain of Purgatory? What happens when there is not a path aimed toward heaven, with guides along the way who lift up your heart when they cry “*Gloria in excelsis Deo*”? What happens when the primacy of worship fades, and there are no more spires in your world?

The Desperate Quest to Fashion One’s Self

Then you have to fashion yourself, as the soulless critic Stephen Greenblatt would have it, and that puts you in a precarious position indeed. It is as if the solitary person had, from his own necessarily poor resources, without genuine culture, to bridge the chasm between unmeaning and meaning; and the only material he could use to build that rickety bridge was the self.



“Narcissus at the Spring” (c. 1610–38), an oil painting by the Flemish painter Jan Roos

This is the source of the desperation with which so many young people, and the teachers and politicians and mass-entertainers who mislead them, hang onto some marker of identity, some sense that they *exist*, that they *belong to a community*, even if the community is abstract and notional, no more than an oval in a Venn diagram, designating the collective of people who self-identify in a certain way because of their race or their ethnicity or their sexual desires.

It is not quite accurate to call such people narcissistic. Contemporary man is too ill to be narcissistic. He is not staring in love at his own beautiful image in the pool. He is staring into the pool to find any clear image of himself at all. If you subject his beliefs to any criticism—and by “beliefs” I mean that delicate spider-web of assumptions about the world that cannot endure the slightest breeze—he does not respond with reasoned argument, but with anger and terror. It is as if you were prying his fingertips from the brink and abandoning him to the abyss. Sometimes it is diagnostic to note contemporary man’s reaction to news that should be happy, but that shakes the spider-web. Tell the feminist that her great-great-grandfather did not, after all, treat his wife like chattel, and that men and women throughout human history have had to learn to love one another just to survive, and the rice-paper walls of her ideological house begin to buckle. Outside of that house lie darkness and confusion.

What can the words of Dante and Bonagiunta mean to someone in that condition? Those words have nothing to do with race or sexual congress or imperialism or anything that the self-fashioner of our time can grab hold of. There is nothing that the identity-politician can use. The young person without a culture and without faith is stretched taut over emptiness, and he cannot turn his head toward the stars. *Ladies who have intelligence of love?* What does that have to do with me, when I am fighting every moment to establish who I am, in a world that is atomized and lonely?

The Secret of Human Identity

But here is the thing: we must not raise up our young people to be in that condition in the first place. The faith is not something we *do*, like fly-fishing or playing chess. It is meant to inform every motion of our lives. It is like a royal dye that is to penetrate to the heart of every fiber of our souls. If someone should object that this is but a far-off ideal, I reply that all of our loves are imperfect; we do not therefore cease to believe that love is essentially the total gift of self. The secret of human identity that

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the politicians seek in the wrong places is the secret of faith and hope and love. We do not only give ourselves away: we *become ourselves* by the gift. We become who we are by forgetting to think about who we are. So it is that a truly liberal education, a free-making education, is in accord with what Jesus says, that he who humbles himself shall be exalted, and with what Saint Paul says, that it is he who acts, but also not he, rather Christ in him, and with what Saint John says, that “what we will be has not yet been revealed, but we shall be like Him, for we shall see Him as He is.”

And now I return to that scene on the mountain. We see four poets: Dante, his humbled rival Bonagiunta, his teacher and authority Virgil, and Statius, who has said that without Virgil’s poetry to guide him, all his own work was not worth a dram: “It was my mamma and my nurse,” says he. We are standing in a history of poetry that spans the centuries. To place yourself among those men, thinking of poetry and of love, with gratitude and manly acknowledgment of one’s superior, is to be lifted beyond yourself. To fall with Statius to the feet of Virgil is to be raised up beyond the petty and transient concerns of the day. To bow your head with Dante when Beatrice finally appears on the mountaintop is to know yourself indeed, and to be capable of knowing others without subordinating them to a calculus of utility, or crumpling them into the cubbyholes of identity politics. It is to refer politics back to its worthy but subordinate place, with the outhouses. It is to stand on the far side of the chasm, advancing into the land of meaning. It is to listen to love as Dante does, and if you are not a sign-finder yourself, it is to behold the signs that others before you have found. It is to stand tall and free, and to look to the stars.

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A Lesson for Aspiring Academics

On Alice von Hildebrand's Happy Failure

Gabrielle Girgis

Fall is in full swing, which means that most graduate students are beginning to feel trepidation and excitement about the end of the term. But another concern tempts the socially conservative or religiously orthodox among them: in coming years, will there be any place for them in their chosen profession?

We live in a time when aspiring academics are often seen by their peers as benighted—or even willfully unjust—for espousing orthodox Christian faith or conservative morals. For those inclined to worry about their professional future, Alice von Hildebrand's account of teaching for nearly forty years at Hunter College offers inspiration. Her [Memoirs of a Happy Failure](#) are a study in the virtues now required of these academics: perseverance, courage, and love in the face of hostility toward one's moral and religious views.

The book is not exactly bedside reading. Hildebrand tells one sobering tale after another of life as a Catholic, female academic in a philosophy department riddled with moral relativism and blatant sexism. She ended up at a secular college, for example, because many Catholic ones refused to hire a woman philosopher. But at Hunter, things were no better: male colleagues made lewd jokes at her expense, or condescendingly called her “the nice French lady” to students.

Originally published
November 11, 2015

[VIEW ONLINE](#)

Yet Hildebrand suspects that her Catholicism provoked this treatment more than her gender. Again and again, her colleagues—self-professed relativists, communists, and atheists—charged her with trying to “spread Catholicism” in the classroom, to poison philosophy with religion. When, in 1954, the department canceled her tenure-track appointment and changed it to a simple one-year appointment (though she had already taught at Hunter for six years), the chair told Hildebrand that her colleagues hoped she would leave the school altogether. “I shall be very honest with you,” he told her. “Your colleagues do not want you.” The reason? They (and he) thought she would be “more effective and happier in a Catholic institution” because “her teaching [was] strongly marked by her Catholic background.”

But as the book shows, there is only one real charge that Hildebrand’s colleagues could raise against her: that she defended the objectivity of truth. And in that effort, she tells us, she always began with the greatest thinkers who did not know Christ: Plato and Aristotle.

This stance nearly cost Hildebrand her job. Repeatedly, the department gave open tenure-track positions to less-qualified applicants who were more sympathetic to the department’s prevailing orthodoxies. When the department finally, grudgingly, gave her an open position, the road forward was paved with special obstacles. A letter of recommendation from a famous philosopher mysteriously disappeared from her file. Much more striking, *seventeen people*—two deans and the chairs of all fifteen departments at Hunter—showed up at her final interview. They interrogated her on the nature of truth and the usual charge of spreading her religion. She won tenure by only one vote, cast out of sympathy for her struggle to stay at the college. She later found out that her experience had been exceptional: no other tenure candidate faced the same gauntlet.

It is clear that Hildebrand’s beliefs cost her other comforts at Hunter. For years, she received the lowest possible salary for instructors. To earn enough money to live, she had to teach heavy course loads almost every semester. The department regularly assigned her to evening session courses. This meant she returned home from teaching (rather than working in a private office, another privilege denied her for many years) late almost every night.

Still, bright moments shine in Hildebrand’s narrative. Her classes, even on less popular topics, were always full. Her challenge to moral relativism in the classroom inspired many students to convert to Catholicism or to return to the Church. Even when she was exhausted from mononucleosis—a chronic illness she has endured throughout her life—and from her myriad duties of teaching, advising, and writing, she helped students grapple with

Hildebrand’s challenge to moral relativism in the classroom inspired many students to convert to Catholicism or to return to the Church.

personal struggles: mental illness, a troubled home life, and more. She gave hope and encouragement to students with nowhere to go and no one to turn to.

Hildebrand also found strength and happiness in her marriage to Dietrich, the renowned Catholic philosopher. For years before they married, she helped him translate his work and shared his ideas with her students. Despite a large age gap, she recalls, they seemed made for each other: “There was such a perfect understanding between us religiously, spiritually, philosophically, and artistically. We shared the very same outlook, the same ideals, and the same way of life. He had, in a very real way, made me who I had become.”

Hildebrand’s uphill battle at Hunter invites readers to wonder why she didn’t leave. Though she doesn’t answer that question directly, she would probably say she *couldn’t* have left—and not just because finding another job, especially as a woman philosopher, would’ve been hard. The book is permeated with a sense of divinely given purpose: God gave her great gifts, great responsibility, and hard crosses, and she has tried to say yes to all of them.

At least two features of her story will resonate with young academics who share Hildebrand’s religious orthodoxy and social conservatism. Like Hildebrand—indeed, like serious and dedicated teachers since Socrates—they face the ancient charge of spreading dangerous ideas and corrupting the youth. They won’t all be accused of religious proselytizing, but they might hear something worse: that only bigotry—sheer animus and irrationality—could possibly motivate their moral and political views.

Second, following Hildebrand, these rising scholars will also have to debate the nature of truth, especially the truth about the human person. But the grounds of that debate, in some academic circles and in the broader culture, seem to have shifted since Hildebrand’s time at Hunter. On questions of human nature and happiness, future academics will not need to dispute the *objectivity* of truth but its *scope*. Against a narrower vision of moral truth that prizes autonomy, freedom, and equality as the most basic goods of human life, and orders politics to maximizing them, these scholars will have to defend a more robust, capacious vision, which values these things not in themselves, but insofar as they help us realize more substantive goods like friendship, knowledge, religion, and even marriage. On this latter view, the truth about the human good entails norms for our relationships—whether with friends, family members, dates, or spouses—that autonomy, freedom, and equality alone can’t spell out.

These academics will disagree with their colleagues, then, not on whether any truth is objective. They will diverge from them instead on *which* truths govern morality and politics. And it is perhaps this current unity on the existence of *some* moral truths that makes disagreement on their content so divisive, so heated. Proponents of the narrower view believe that *they* hold the moral high ground: views that dissent from theirs aren’t just intellectual errors, but grave injustices.

Faced with this new censoriousness, religiously orthodox or socially conservative academics will doubtless feel pressure to compromise. Hildebrand writes of more than one colleague who kept quiet about his religious beliefs for fear of getting her treatment. But by stark contrast, her persistent, public defense of truth's objectivity, and her reasoned response to name-calling, models integrity and goodwill for her successors. How good it would be if, years from now, they could echo her concluding words:

While I am convinced that I could have done lots of things better and that I made plenty of mistakes in my classroom, "my approach to teaching" has been an uncompromising devotion to truth, a passionate desire to share with others what I myself have received, and an absolute refusal to compromise for the sake of worldly advantages. I could not join the bandwagon of those who reflect the "spirit of the times" or "what the age demands."

It is true that this systematic refusal "to play the game" . . . explains the fact that I was a professional failure. But if the "successful" professors only knew the joy I have experienced in the classroom, if they could only suspect how rich and fruitful my teaching has been, how many dear friends I have made, they would perhaps see that I have chosen the better part.

By all appearances, those who share Hildebrand's worldview and vocation have an even harder battle ahead of them than she did. The charges against them are worse, the stakes are higher, and the prospects, at least for now, look dimmer. But Hildebrand—who experienced job insecurity, poverty, and social ostracism for the sake of her fidelity to the truth (and to the Person she believes is Truth itself)—remains a model. Her *Memoirs* point to what really matters in any vocation, especially in academia: not only moral integrity, but above all love and service to others, including and especially those who dislike or disagree with us.

Gabrielle Speech is a 2012 graduate of Notre Dame's Program of Liberal Studies, Phi Beta Kappa and magna cum laude. A former ISI Fellow and a recipient of the Sycamore Trust Leadership Award, she was previously editor-in-chief of *The Irish Rover*. Speech also received a University Summer Research Grant for the study of life issues, and was awarded the Brother John LaVelle, C.S.C. Scholarship for chairing Notre Dame Right to Life's Intercollegiate Conference and Spring Lecture Series.



Image by Danny Müller

That Time I Turned a Routine Traffic Ticket into the Constitutional Trial of the Century

Adam J. MacLeod

The traffic-camera ticket: like a parking ticket, it looks lawful enough. When they receive one, most people simply write the check. It seems like the sensible and law-abiding thing to do.

But this is not a parking ticket. In legal terms, it is not a proceeding *in rem*—against your car. It is a legal action against you personally. And before you pay the fine, you might want to hear my story.

My story is not legal advice. I offer it only to show how our ruling elites have corrupted the rule of law and to suggest why this matters for the American experiment in self-governance.

Originally published
January 13, 2017

[VIEW ONLINE](#)

The Ticket

My story begins with a confession: I got a traffic-camera ticket. An affidavit signed by a Montgomery City police officer, it averred that I had committed a particular traffic violation on a certain date, at a certain time and location. It showed a photograph of one of our family vehicles. It charged me with a “civil violation” of “criminal law.”

I wasn't driving the car. In fact, at the time I was in a faculty meeting at the law school where I teach. Thus, I decided to challenge this injustice on the principle of the thing.

Municipal Court

On the appointed day, I tromped over to municipal court and sat down among those accused of armed robbery, drug dealing, and other misdeeds. After an hour, a bailiff emerged to herd into a corner of the courtroom those of us who had appeared for the slightly more respectable offense of owning a speeding vehicle. We waited some more, first for the clerk, and then to be called individually to meet the clerk. Those of us who requested a hearing (evoking an exasperated, poor-idiot-thinks-he's-Perry-Mason expression) then waited for a magistrate to show up. Then we each waited our turn to appear before the magistrate.

After a summary hearing, the magistrate ruled against me. So I appealed to the county-level Circuit Court.

Actually, I tried to appeal. The clerk's office made me wait in the lobby. When they finally saw me, they insisted that I provide a criminal appeal bond. *But I wasn't convicted of a crime, I protested. No matter. No appeal bond; no appeal.*

No, we don't accept checks. Come back with the amount of your ticket in cash. I found an ATM and returned, only to be left waiting in the lobby again. When I was readmitted, I saw a different employee who insisted on *twice* the amount of the ticket in cash. I left and returned again.

More waiting.

The City Attorney

Next, I called the City Attorney to see if she really wanted to go through with this. She did.

One does not expect municipal officials to be paragons of lawfulness. But it is a bit jarring to encounter a City Attorney who evinces no interest in, much less knowledge of, her constitutional duties.

I decided to challenge this injustice on the principle of the thing.

I asked her whether this was a criminal action or a civil action. She replied, “It’s hard to explain it in those terms.” I asked whether she intended to proceed under criminal procedural rules or in civil procedure. We would proceed under the “rules of criminal procedure,” she answered because this is a criminal case. I asked when I could expect to be charged, indicted, or have a probable cause determination. She replied that none of those events would occur because this is “a civil action.” So I could expect to be served with a complaint? No, no. As she had already explained, we would proceed under the criminal rules.

(For the record, the Montgomery City Attorney never studied law with me.)

She asserted that I had violated the “rules of the road” and explained, “You were caught on camera speeding.” I asked her for any evidence. She replied that she did not need evidence. I was deemed liable because an automobile that I own “was caught speeding.” But the complaint is against me, I noted, not my car. But I am liable, she insisted, because I loaned my vehicle to “someone who speeds.”

I asked where in the laws it prohibits me from loaning my vehicle, and how I am to know in advance that any particular person is going to speed using my car. Agitated by my “semantics,” she advised me to raise any due process issues with the trial court.

[*click*]

This was going to be fun.

The Trial

Before the trial, I moved to dismiss the case. I wanted the judge to pay attention, so I tried to make the motion interesting. Okay, maybe “interesting” isn’t the best word. It was over the top. I alluded to Hobbes and Locke. I quoted the Declaration of Independence. I suggested the success of the American experiment was at stake. I resorted to superlatives. You know: all the stuff I teach my law students never to do.

We proceeded to trial. The city produced one witness, the police officer who had signed the affidavit. On direct examination, he explained how the traffic camera system works. A corporation in another state called American Traffic Solutions operates the camera system, chooses the photographs on which to predicate enforcement, recommends the Montgomery police department initiate an action against a vehicle’s owner, and is paid for its work.

On cross-examination, I established that:

- *He was not present at the time of the alleged violation.*
- *He has no photographic evidence of the driver.*

- *There were no witnesses.*
- *He does not know where Adam MacLeod was at the time of the alleged violation.*

And so on. I then asked the question one is taught never to ask on cross—the last one. “So, you signed an affidavit under the pains and penalties of perjury alleging probable cause to believe that Adam MacLeod committed a violation of traffic laws without any evidence that was so?”

Without hesitating he answered, “Yes.” This surprised both of us. It also surprised the judge, who looked up from his desk for the first time. A police officer had just testified under oath that he perjured himself in service to a city government and a mysterious, far-away corporation whose officers probably earn many times his salary.

The city then rested its case. I renewed my motion to dismiss, which the judge immediately granted.

Vindication! Well, sort of. When I tried to recover my doubled appeal bond, I was told that the clerk was not authorized to give me my money. Naturally, the law contains no procedure for return of the bond and imposes on the court no duty to return it. I was advised to write a motion. Weeks later, when the court still had not ruled on my motion, I was told I could file a motion asking for a ruling on my earlier motion. Bowing to absurdity, I did so. Still nothing has happened now several months later.

Why This Matters

Traffic camera laws are popular in part because they appeal to a law-and-order impulse. If we are going to stop those nefarious evildoers who jeopardize the health of the republic by sliding through yellow lights when no one else is around and driving through empty streets at thirty miles per hour in twenty-five zones, then we need a way around such pesky impediments as a lack of eyewitnesses.

Yet traffic cameras do not always produce probable cause that a particular person has committed a crime. To get around this “problem” (as a certain law-and-order president-elect might call it), several states have created an entirely novel phylum of law: the civil violation of a criminal prohibition. Using this nifty device, a city can charge you of a crime without any witnesses, without any probable cause determination, and without any civil due process.

In short, municipal officials and their private contractors have at their disposal the powers of both criminal and civil law and are excused from the due process duties of both criminal and civil law. It’s a neat trick that would have made King George III blush.

Standing and the Fundamentals of Constitutionalism

Equally troubling is that the municipality is authorized to make the owner answer a civil suit without any standing. Standing is a requirement for a person who wishes to enlist a state's judicial power against another person. No fellow citizen can haul you into court without first alleging that you wrongly caused some particular injury to that person.

A city cannot lawfully do to you what your fellow citizen cannot do to you. And it has no standing if it has suffered no particular injury. If a driver rolls through a yellow light at an empty intersection and fails to cross the line before the light turns red, no one is injured, least of all the city.

In my case, the City Attorney argued that my city has standing because someone exceeded the speed limit while driving my car and thereby breached his or her duty to obey the law. Certainly, all citizens have a duty not to break criminal laws with culpable intent. But we owe that duty neither to the city nor to the state but to *each other*. If we breach the duty, the city prosecutes on behalf of the people and must afford us criminal due process.

That is American Constitutionalism 101.

The Mayor

The story continues. Lovers of liberty in Alabama kept political pressure on the state legislature, and earlier this year the legislature repealed the traffic-camera law. Yet Montgomery's defiant mayor announced that [the city would continue to operate the program](#). Curiously, he asserted that to stop issuing tickets would breach the city's contract with American Traffic Solutions. One wonders how many tickets the city is contractually obligated to issue.

Finally, after the Attorney General told him to knock off the foolishness, the mayor backed down. Sort of. [The city will no longer use car-based cameras](#), though it will continue to use stationary cameras mounted at intersections. In a fit of petulance, and belying his insistence that the program is motivated by safety concerns rather than revenue, the mayor announced that the amounts of fines for ordinary traffic violations will now be tripled.

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A Small Inconvenience, a Big Problem for Self-Government

Traffic-camera laws seem like such minor, insignificant intrusions on liberty that few grasp their constitutional significance. But they reflect a profoundly mistaken view of American constitutionalism. One might say that the traffic camera is a sign of our times. Its widespread use and acceptance reveals how far we have drifted from our fundamental commitment to self-government. When our governing officials dismiss due process as mere semantics, when they exercise powers they don't have and ignore duties they actually bear, and when we let them get away with it, we have ceased to be our own rulers.

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Where in the Constitution is “Separation of Church and State”?

Michael Stokes Paulsen

When Delaware U.S. Senate candidate Christine O'Donnell interjected this question in last week's debate with her opponent Chris Coons, the audience—a law school audience—laughed and guffawed in derision. But the joke, of course, is on the audience: as everyone with even a modicum of understanding of the Constitution knows, the term “separation of church and state” appears *nowhere* in the Constitution. Even Mr. Coons acknowledged as much. The metaphor of a “wall of separation” comes from a letter President Thomas Jefferson penned to a group of Baptists in Danbury, Connecticut—a dozen years after the Constitution and Bill of Rights were ratified. The phrase is not mentioned in the Constitution's text or in any of the debates leading to its ratification.

Originally published October 28, 2010

[VIEW ONLINE](#)

ABOVE

“Scene at the Signing of the Constitution of the United States” (1940), oil painting by Howard Chandler Christy

What the Constitution's First Amendment *does* say is that government shall make no law "respecting an establishment of religion or prohibiting the free exercise thereof." It is well to attend to the actual words of the Constitution (an admirable obsession of some Tea Party folks, like Ms. O'Donnell). Nowhere is this more important than with the Establishment Clause of the First Amendment: forbidding an official *establishment* of religion is something quite different from the much looser, imprecise term "separation of church and state." The Constitution only forbids government sponsorship and compulsion of religious exercise by individual citizens. It does not require hermetic "separation"—implying exclusion—of religion and religious persons from public affairs of state.

A strict separationist view is not supported by the Constitution. Indeed, such an approach would contradict other parts of the First Amendment, in important ways. Most obviously, it would be at war with the protection of the "free exercise" of religion. If government could wall out religious persons and groups from participation in public affairs or from benefits or programs generally available to all, on the basis of neutral criteria, that would mean government could *discriminate against* religion. It is utter foolishness to think that the framers of the First Amendment intended such a result—and wrote an incoherent guarantee of religious liberty that contradicted itself in the same sentence, both requiring and forbidding discrimination against religion in one breath.

The strict separationist view is also at war with the freedom of speech and press, likewise protected by the First Amendment. Under a "separation" view, religious groups could not use government facilities (school buildings, public parks) for expressive purposes on the same basis as other groups. Literally dozens of Supreme Court cases reject that view. In a notable 1995 case (*Rosenberger v. University of Virginia*) the Court held that a state university could not refuse to fund on an even-handed basis a religious student newspaper, if it made funding available to other student publications. The Free Speech Clause forbade discrimination against religious speech or press, the Court held, and the Establishment Clause could not sensibly be read to require such discrimination.

The correct understanding of the First Amendment is not that it forbids contact—and even voluntary cooperation—between church and state. Rather, it protects private religious liberty, but does so in two complementary ways. In a nutshell, government may

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neither compel nor prohibit religious exercise. The Establishment Clause side of the coin says that government may not *prescribe* religious exercise; the Free Exercise side says that government may not *proscribe*, disfavor or otherwise punish or prevent religious exercise voluntarily chosen by the people. But the two phrases are two sides of the same coin. It is little wonder, then, that the Supreme Court has abandoned entirely the misleading metaphor “separation of church and state.” It simply does not help explain the true meaning of the First Amendment.

This is more than a quibble. The different understanding makes a difference in results. Under a separation view, government must discriminate against religion, reject school choice “voucher” plans that include religious options, and extirpate religious references and symbols from public discourse. Under the original meaning of the Constitution, government must *protect* religious choices and *include* religious persons, groups, and speakers on an equal basis. It may recognize and accommodate religion, as long as it does not in effect compel persons to engage in religious exercises or practices against their will—the hallmark of what an “establishment of religion” was understood to mean at the time the framers wrote the First Amendment.

Ms. O’Donnell’s pithy challenge—“Where in the Constitution is the separation of church and state?”—is actually an excellent shorthand critique of those (like Mr. Coons, perhaps?) who would sloppily translate the First Amendment’s protections of religious liberty into incoherent hostility toward religion. And that is no laughing matter.

Capitalism and the Quest for Community

Brian Jones

The last few years have not been flattering to American higher education, to say the least. Incident after incident has prompted the question of why our universities are producing students who will not abide, or even argue with, a speaker like Charles Murray, to take just one recent example. The evident unwillingness to debate opposing views, the histrionic behavior, the knee-jerk recourse to bureaucracies—the evidence has led many commentators to see today’s university students as emotive, fragile, and irrational.

They may be right. If so, it is tempting to use that picture of today’s students to explain a more enduring trend that has also puzzled conservatives: the graduates of our country’s institutions of higher education disproportionately identify as political democrats and economic socialists. Representative of the conservative response to this datum is [a recent op-ed](#) in the *Wall Street Journal*, written by Warren A. Stephens and entitled “Why Do the Young Reject Capitalism?”

The narrative related in such arguments will strike many as familiar. Capitalism has been a tremendous force for good in the world, lifting more people out of poverty than at any other time in history, because a truly free market gives more people access to real capital. The upward mobility provided by modern capitalism has been the surest path to



Image by Anna Dziubinska

Originally published
July 21, 2017

[VIEW ONLINE](#)

the kind of liberty that no socialist or democrat-led order has ever provided. Increased regulation of and government intrusion into the marketplace are characteristic of stifling and oppressive social and political orders. “Crisis in the pre-capitalist era,” Brian Domitrovic [has rightly pointed out](#), “inevitably meant not merely destitution, but famine. Famine is unknown in capitalist history.” But destitution, famine, and the shortcomings of socialism generally remain visible even today in non-capitalist economies, [like that of Venezuela](#). Anyone worried about poverty, the narrative concludes, really ought to support capitalism.

There is substantial merit to arguments like this one; the destruction endemic to socialist regimes, indeed, should never be forgotten. The argument for capitalism, though, shouldn’t just be an argument against socialism. Before explaining *away* the rejection of capitalism, it would be wise to ask whether there really is something else motivating it, something that the standard narrative misses. I believe that there is. Defenders of capitalism need a more humane anthropology, sensitive to man’s social and communal nature, lest they forget to ask the crucial question of what economics is for.

Economics and the Modern Individual

It is easy to think of capitalism and socialism as inherently opposed, but perhaps paradoxically, they both tend to view their subject matter reductively. Historically, this is no accident. In the modern period, the natural sciences underwent considerable development by adopting a methodological reductionism, which was then exported to other disciplines and even to the understanding of the person.

Modern economics consequently came to conceive of itself as a theoretical science. In a 2002 *American Spectator* article—“Supply Side Thermodynamics”—John Rutledge, a chief economic advisor in the Reagan and George W. Bush administrations, defines economics as the study of “the interactions of systems of people in markets. Just as in physics, our concerns are work and heat—only we call them ‘output’ and ‘cost.’ The particles of economic analysis—individual people—think, scheme, love, and hate. Otherwise, they behave just the same as particles in physics.”

The analogy suggests that, for Rutledge, the success of economics depends on its conceiving its subject matter—the human person and his interactions with others—on the model of the particles of physics and the fundamental physical forces. Human behavior must be accurately described by the laws of mathematics and metrics of supply and

Defenders of capitalism need a more humane anthropology, sensitive to man’s social and communal nature, lest they forget to ask the crucial question of what economics is for.

demand. And if human behavior is predictable, then it is perhaps controllable. Thus, capitalism and socialism emerge as two competing ways of controlling the *whole* of human society by looking at the “forces” governing its *parts*.

The source of the convergence of capitalism and socialism on reductionism, then, is the fact that both systems are based on modern political and philosophical accounts of the person and of society. For modern economics, man is primarily an individual. As [Milton Friedman succinctly puts it](#) in the course of defending the market economy, “The central principle of a market economy is co-operation through voluntary exchange. *Individuals* co-operate with others because they can in this way *satisfy their own wants more effectively*” (Emphases added).

Friedman here is articulating a worldview. This philosophical lens doesn’t just affect how we see economics but also how we see anthropology. Society, on this view, is not natural to man; rather, when it occurs, it is legitimized into existence through voluntary contract. The end of economics is taken to be the satisfaction of individuals’ “wants,” and association and cooperation are undertaken for this end. Economics, in this conception, is not connected to happiness, need, or the naturalness of society.

Part and Whole

It’s true that human beings are agents capable of cooperating to achieve their goals, and by attending to this fact we may be able to predict some human behavior and plan wisely. But we should not forget that reduction has its limits. As Wendell Berry has pointed out, the attempt to see reality only in terms of parts often has a pernicious, distorting effect, which we must try to avoid:

We seem to have been living for a long time on the assumption that we now can safely deal with parts, leaving the whole to take care of itself. But now the news from everywhere is that we have to begin gathering up the scattered pieces, figuring out where they belong, and putting them back together. For the parts can be reconciled to each other only within the pattern of the whole to which they belong.

By taking man, before all else, to be an individual to whom society is not natural, does modern economics leave something out?

It seems that it does. First, consider an example of a society that is unequivocally natural to man and anything but voluntary: the family. Men and women often don’t have a say about when they have a child, and in most ways they don’t control who that child will become—but they must love and welcome him or her all the same. And children themselves are thrust into existence in a state of total dependence. Not only is the family the only

effective way for the rearing of the largely helpless, but the flourishing of parents comes to consist, in part, in loving and making sacrifices for their children. In the most primeval of societies, then, each person's good is tied up with that of several unchosen others.

It would be one thing if the family were a special case, but the point holds generally: a well-ordered community is both instrumental to and constitutive of human happiness. Aristotle [argued](#) that man is by nature a social and political animal:

The proof that the city is a creation of nature and prior to the individual is that the individual, when isolated, is not self-sufficient; and therefore he is like a part in relation to the whole. But he who is unable to live in society, or who has no need because he is sufficient for himself, must be either a beast or a god: he is no part of a city.

What characterizes our nature, as communal, is an incompleteness: in order to reach happiness, the *end* of our nature, we need others. But our interdependence is not merely born of our inability to achieve happiness on our own. Participating in various forms of community is part of *what it is* for a human to flourish, to be happy. [As Aristotle held](#), even the virtuous need friends, not because they tend to lack what they need, but rather because loving others and sharing with them is a natural expression of virtue. The same holds for family life, political activity, and other forms of civic engagement. The goal of economic activity should be recognized as the *oikos*, which Roger Scruton [describes as](#) “the place of settlement and security where people are at home with each other and at peace with their neighbors.”

Whereas modern economics is supposed to be a theoretical science, akin to physics, the classical tradition correctly recognizes that it is a practical science, subordinate to ethics and politics, from which it receives its ends. Before asking *how* to maximize certain economic metrics, we must ask whether the maximization of those metrics is all we need to pursue—whether they serve the *oikos* or not.

The neglect of the true ends of the market can also be destructive of the institutions of capitalism themselves. Robert Nisbet, a frequently neglected sociologist and conservative, was sensitive to this point. In his book *The Quest for Community*, he argues that “human institutions depend for their preservation on the strength of the allegiances which such

Even the virtuous need friends, not because they tend to lack what they need, but rather because loving others and sharing with them is a natural expression of virtue.

institutions create in human beings. To divorce economic ends from the contexts of social association within which allegiances to these ends can be nourished is fatal.”

The problem with capitalism, in Nisbet’s view, is simply that its understanding of society is deficient. Unrooted in the truth about human beings, it could not but fail:

As a theory it failed because it mistook for ineradicable characteristics of individuals qualities that were in fact inseparable from social groups. As a policy it failed because its atomistic propositions were inevitably unavailing against the reality of enlarging masses of insecure individuals. Far from proving a check upon the growth of the omnicompetent State, the old laissez faire actually accelerated this growth. Its indifference to every form of community and association left the State as the sole area of reform and security.

Conservatives cannot solely focus on the economic increases that have come into existence due to the capitalist system, nor will it suffice to point out the defects of socialism. A positive account must connect economic issues to something fundamentally prior to economics itself. Such a defense is difficult to mount, which perhaps explains why it is so infrequently attempted. But for that reason, it is all the more urgent.

Defending Capitalism Correctly

It isn’t difficult to imagine much of what I have said as coming from the mouth of a critic of capitalism. But my goal is to *defend* the free market by acknowledging its rightful but limited place in a properly ordered society. Defenses of capitalism need to go beyond capitalism, to the value of the communities that capitalism is supposed to serve; otherwise, they cannot appeal to human beings on a quest for community.

Nisbet concludes *The Quest for Community* with a call for “a new philosophy of laissez faire.” It is worth quoting at length:

We need a laissez faire that will hold fast to the ends of autonomy and freedom of choice; one that will begin not with the imaginary, abstract individual but with the personalities of human beings as they are actually given to us in association. . . . To create the conditions within which autonomous individuals could prosper, could be emancipated from the binding ties of kinship, class, and community, was the objective of the older laissez faire. To create conditions within which autonomous groups may prosper must be, I believe, the prime objective of the new laissez faire. . . . What we need at the present time is the knowledge and administrative skill to create a laissez faire in which the basic unit will be the social group.

Stephens concludes his *Journal* essay with this admonition: “As a country, we need to reclaim our pride in capitalism and remember that the markets have the greatest power when they are free, and that free markets empower one and all, not just the few and the select.” This is certainly the case, but it is only a part of the story and, I might add, not the foundational one. If capitalism is going to be promulgated in the future, it will only be because it is shown to serve the good of various *wholes* upon which human happiness depends: family, household, local community, and church.

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The War on Poverty at 50

How to Craft Policy to Help America's Poor

Rachel Sheffield

Fifty years ago today, President Lyndon B. Johnson delivered his famous [“War on Poverty” speech](#). Johnson’s purpose was “not only to relieve the symptom of poverty, but to cure it and, above all, to prevent it.” His arsenal of anti-poverty programs meant to strike “at the causes, not just the consequences of poverty” by providing individuals “the opportunity to develop skills, continue education, and find useful work.” Johnson’s speech ushered in his Great Society programs, including food stamps, Head Start, and Medicaid. Many of these programs continue today, and numerous

Originally published January 2014

[VIEW ONLINE](#)

ABOVE

“President Johnson’s poverty tour in 1964” (May 7, 1964), photograph by Cecil W. Stoughton

others have been added to the mix. Currently, the federal government operates roughly eighty means-tested welfare programs.

Though President Johnson insisted the idea was “opportunity and not doles,” the War on Poverty has not lived up to that ideal. Government may be able to provide material assistance, but it has failed to address the deeper causes of poverty. Worse, it has discouraged the most important defenses against poverty in America—work and marriage. A half-century after Johnson’s call to arms, it is time to redirect the response. Welfare programs should be reformed to restore those in need to self-sufficiency, rather than locking them in dependence on government.

Where We Are Today

The poverty rate today remains nearly as high as when LBJ launched the War on Poverty. A stubborn poverty rate, however, does not mean government welfare spending has had no effect. The approximately \$20 trillion (adjusted for inflation) in government welfare spending over the last fifty years has no doubt boosted the material living standards of America’s poor. But it has done so while encouraging dependence, not helping those in need “to develop their own capacities,” as Johnson envisioned.

Part of the reason the poverty rate is nearly the same today as it was fifty years ago is that most welfare spending is not accounted for when measuring poverty. Measures of poverty exclude benefits from governmental assistance programs. Thus, the government’s poverty measure is not a good indicator of material living standards. However, it does provide a good indicator of the number of Americans reliant on government for subsistence. The poverty measure clearly shows that the rate of self-sufficiency has remained virtually unchanged since the beginning of the War on Poverty.

What *have* declined since the 1960s are the culture and institutions that guard against poverty by helping individuals succeed and families thrive. The two main defenses against poverty—work and marriage—have declined markedly in the past five decades.

The incentive structure of the welfare system has tended to make things worse when it comes to work and marriage. The vast majority of welfare programs fail to require work of able-bodied adults. Work requirements serve as a deterrent from getting on welfare in the first place and assist those who do need help to get back on their feet more rapidly. In addition, too many welfare programs include a marriage penalty, discouraging the [strongest protector against child poverty](#).

The two main defenses against poverty—work and marriage—have declined markedly in the past five decades.

These features of the welfare state have interacted with larger cultural dynamics heading in the wrong direction. Work participation among some segments of America has been trending downward for the last fifty years. Among working-class, able-bodied American men in the prime of their lives (30–49 years of age), [levels of industriousness have declined](#), explains Charles Murray. For example, in 2008, 12 percent of prime-age men with a high-school education or less were “out of the labor force” in 2008, compared to just 3 percent in 1968. Among poor households with children, even in good economic times, the amount of work is low, with [an average of 16 hours per week](#).

Family stability has also declined since the 1960s. Marriage is becoming rarer. In 1970, 90 percent of women and 80 percent of men between 25 and 29 years of age were married, [whereas today only 50 percent and 40 percent are](#). More troublingly, [over 40 percent of children are born outside of marriage annually](#), putting them at a significantly greater risk of poverty. Five decades ago, [fewer than 10 percent of children were born to unmarried mothers](#). Unwed childbearing is not limited to low-income communities but is becoming common in working-class America as well.



“The day President Johnson signed the Economic Opportunity Act of 1964” (August 20, 1964), U.S. Government photo

The architects of the Great Society may have nobly intended to help individuals move toward self-sufficiency, but, in reality, its design does not accomplish that goal. Most programs act as one-way handouts that fail to motivate individuals to achieve self-sufficiency through work. The War on Poverty has failed America’s poor for decades, neglecting to encourage people to achieve their potential and contribute their talents to society. Advocates who seek to expand the welfare state seem to measure its success by the number of people receiving a benefit rather than by the number of individuals who are able to provide for themselves and subsequently move off welfare.

Today, welfare rolls grow as government-assistance programs multiply. US taxpayers spend approximately sixteen times as much on welfare (adjusting for inflation) as in LBJ’s day. [Approximately eighty means-tested welfare programs](#) provide cash, food, housing,

medical care, and social services to America's poor and low-income populations. The federal government currently spends [four times the amount necessary to pull every poor person out of poverty.](#)

Yet supporters of government welfare suggest that the solution to poverty is more government assistance for more people. In recent years, government programs have sponsored food-stamp advertisements and other taxpayer-funded outreach strategies that unabashedly attempt to get anyone who may qualify onto the rolls. The aim of such efforts is not to increase opportunity by helping people move off food stamps and into steady employment—it's just the opposite of Johnson's intent.

If winning the War on Poverty were simply a matter of distributing material goods, government aid should have accomplished that goal by now. Rather than not spending enough, the problem is that policy has not taken into account the reality that fighting poverty does not simply mean reallocating material goods. It means helping those in need to escape government dependence and achieve self-sufficiency in the context of community.

Fighting poverty is undoubtedly complex. That's why government welfare is limited in what it can do to protect against poverty. Government can dole out material aid, but when it comes to addressing the root causes of poverty, it has little ability to truly assist. Most poverty in America stems from deeper factors such as relational breakdown. These challenges do not find their solutions in a government check or a food-stamp card. Policy can provide a temporary safety net for those with no other place to turn, but the deeper causes of human poverty are best addressed by those closest to the person in need: family, friends, neighbors, churches, and other institutions of civil society. It is crucial that anti-poverty policy incentives promote individual well-being and responsibility without hindering the ability of those closest to the needy to help restore their lives, relationships, and communities.

It is crucial that anti-poverty policy incentives promote individual well-being and responsibility without hindering the ability of those closest to the needy to help restore their lives, relationships, and communities.

Work and Marriage

The 1996 welfare reform provides a policy model built on such sound principles and incentives. That legislative effort transformed the largest government cash welfare program into a work activation program, called [Temporary Assistance to Needy Families](#) (TANF). For the first time, able-bodied adult recipients were required to work, prepare for work, or look for work in exchange for receiving welfare aid.

[After the 1996 reform](#), welfare rolls declined by half within about five years. Employment rates among low-income individuals increased, and child poverty declined, particularly for African American children, dropping to its lowest levels in US history.

Bob Woodson, founder of the [Center for Neighborhood Enterprise](#), which works with community groups by empowering those in need to overcome obstacles, [tells the story](#) of his niece and how welfare reform influenced her—and stopped undercutting his efforts to help her:

I had a niece who was in her 30s and had been on welfare for years. She was living with her child in one of the most dangerous public-housing projects in Philadelphia I spent thousands of dollars trying to help her relocate. I found an apartment for her in Arlington . . . and found a job for her. But when I went to pick her up, she was in a bathrobe with a beer in her hand in the middle of the afternoon. She couldn't bring herself to make the move and leave the situation she had. My efforts to help her help herself couldn't compete with the welfare system. In the system, she knew she had a place to live, no matter how dangerous, and she had food and day-care benefits.

It wasn't until welfare reform became a reality that [my niece] changed. Welfare reform did what all of my efforts to persuade her could not do. It compelled her to go out and get a job. She had been on welfare for years and the only thing that interrupted that cycle was welfare reform.

Going Forward

The 1996 welfare reform, although an important success, transformed just one program. More recently, [even those reforms have been weakened](#). Significant reform is needed to ensure that public assistance functions on the principle of self-sufficiency through work. The 1996 reforms should be restored. Furthermore, other programs, such as [food stamps](#) and public housing, should be restructured around incentives that encourage work among able-bodied adults.

Restoring a culture of marriage is also crucial. Children born and raised outside marriage [are five times more likely to experience poverty](#) than their peers in intact families. They also tend to face numerous other obstacles educationally, behaviorally, and relationally.

Policy [should promote healthy marriage](#), not present an obstacle to it. Too many welfare programs include a marriage penalty. Policy reforms should aim to reduce such penalties. Similarly, policy can increase awareness about the significance of marriage for child outcomes and the resources for marriage education. A portion of TANF funding is set aside for such efforts, yet most states fail to use it for this purpose.

Two states, however, have experimented with marriage-strengthening efforts. Oklahoma and Utah have made resources available for marriage and relationship education to youth

and couples who are at risk or already dependent on government services. Elsewhere, community marriage initiatives provide a model. [First Things First](#) in Chattanooga, Tennessee, for example, provides marriage education, operates public advertising campaigns on the importance of marriage, and holds community events for couples and families. More efforts like these are needed to strengthen the vitally important institution of marriage.

Today, the federal government has spent more on the War on Poverty than on all military wars in American history. We cannot afford another fifty years of policies and programs that fail to truly help America's most vulnerable. Welfare must be based on principles that encourage the well-being of the individual. By promoting self-sufficiency through work and helping Americans in need to build and maintain healthy marriages, we can fight poverty and help provide a stable foundation for children, communities, and society as a whole.

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