

REVIEWS



RECONSIDERATIONS



## Beyond the Right to Life

*Wilfred M. McClay*

Even the most complacent observers of the contemporary scene know that we find ourselves in a time of extraordinary promise and peril for the human condition. The two prospects are tightly intertwined. We are proud of our ability to free ourselves from material necessity and from outdated traditions and inherited cultural prejudices, and take for granted an ever-growing knowledge of, and control over, the physical mechanisms of our existence. We feel confident that there are no mysteries or constraints that our knowledge cannot eventually master, no diseases it cannot cure, no possibilities it cannot open to us. And yet nearly all of us experience, from time to time, a shudder of anxiety at the unknown landscapes into which all this is carrying us. Our medical and biotechnological breakthroughs increasingly arrive on our doorsteps with the faint odor of ancient transgression still

*The Party of Death: The Democrats, the Media, the Courts, and the Disregard for Human Life*  
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clinging to them. Every day human ingenuity pushes us into some precinct that was once off-limits, while practices that were once forbidden or rare or unthinkable become commonplace with astonishing rapidity. The momentum of innovation at times seems unstoppable, answerable neither to effective political control nor to effective moral interdictions grounded in a shared metaphysics.

Of course, future shock is nothing new, and there is some comfort to be found in the unchanging fact that change has always seemed threatening. Yet such comfort may be a delusion. A great many of our own era's innovations have clear and profound implications for the meaning of human life itself, as journalist Ramesh Ponnuru forcefully argues in this compact and eminently readable book. In particular, Ponnuru contends that the various "life" issues now preoccupying us—the unlimited abortion license, physician-assisted

suicide, euthanasia, infanticide, prenatal testing, cloning, embryonic stem-cell research, and others yet to come—are all interconnected, and are best understood as part of a single phenomenon and a single moral challenge. Although few of the specific details provided in his book will be news to informed readers who follow these matters, his manner of gathering and framing the facts is both arresting and suggestive.

What all of the practices at issue have in common, in his view, is their wanton disregard for the basic rights and fundamental dignity of the human person. Such practices are consciously promoted by political and professional forces that he refers to, a little vaguely, as “the party of death.” That term points toward a functional unity underlying disparate movements, arising out of a shared willingness to sacrifice the lives of the marginal and vulnerable—the very young, the elderly, the disabled, the inconvenient, and others whose “quality of life” is deemed insufficiently weighty to deserve protection—when doing so is thought to further the cause of individual well-being (among those in the healthy adult majority) and general progress. Ponnuru pushes back hard against these forces, insisting that we should not allow ourselves to abandon our culture’s longstanding commitment to the unique and transcendent value of each human life, from conception to natural death, and that we should

not countenance any social practices that systemically diminish the value of human life. These are admirable sentiments, admirably expressed.

In connecting all these forces, Ponnuru finds their rise to be rooted in the advent of the post-*Roe v. Wade* abortion regime. Hence the book’s starting place, and its center of gravity throughout, is the law and politics of abortion in America. That subject occupies the first half of the book, and looms large over all the rest. It would not be right to say that it is *only* a book about abortion. But it would be fair to say that the book assigns primacy of place to abortion, and views all other issues through its lens. Ponnuru spends a great deal of his time rehearsing familiar incidents and controversies in the abortion-related legal and culture wars, often drawing on his own past writings, providing sketches that are often insightful and always interesting. He surveys the constitutional and intellectual mess of the *Roe* decision itself, and the accompanying *Doe* decision ensuring that *Roe* would in effect mean an unrestricted abortion license, as well as the successive decisions, notably *Casey*, in which the Court dug in its heels as the basis for *Roe* became increasingly tenuous. He skewers Mario Cuomo’s dodgy 1984 “personally opposed, but” speech at Notre Dame, and exposes the scandalous dishonesty, never fully acknowledged, of the “historians’ brief” in support of the *Webster* and *Casey* decisions.

All along the way, he puts forward a spirited argument based not on religion, at least not explicitly so, but on an assertion of natural rights: that the sanctity of life is grounded in our recognition of the intrinsic dignity and worth of our human nature. These rights “cannot depend on the particular qualities that some human beings have and others do not,” but must be regarded as universal and categorical in character. Criteria of mental capacity or ability to function independently or any other such desiderata are inadequate in the end, since “it is impossible to identify... the minimum level one must have to enjoy rights.” A fertilized egg in vitro, an unborn child in the womb, a deformed toddler, a quadriplegic adult, a comatose stroke victim, an elderly man afflicted with dementia: all are equally deserving of protection, since all possess the fundamental and essential characteristics of a human being. By this standard, the dignity and rights of the human race are indivisible. Either all of us possess them equally, or none of us possess them at all. *Roe*, he argues, “violates the principle of human equality that is the moral basis for democratic self-government, and specifically American democracy.” It constitutes a “radical challenge to human rights” because it “denies the existence of human rights at their roots.”

This ringing endorsement of the value of all human life is one of the book’s most exemplary features.

Equally valuable is Ponnuru’s lucid argument against using the concept of “personhood” to distinguish between rights-bearing and non-rights-bearing humans. To allow that distinction, he says, would be to say that there can be such a thing as “a category of human non-persons,” entities that are recognizably human, but whose human status is not enough to protect them from being killed with impunity. And he makes a case that, over time, it will be “impossible to confine the category of lives deemed unworthy of protection to the unborn and the persistently vegetative,” but that more and more categories, spreading into infanticide and geriatricide, and elimination of the deformed or severely injured, will fall within range of the party of death’s sickle.

The book is full of much other useful insight into the nature of our current problems, and how we got there. Of particular interest is the story of how, in a matter of but a few years, the Democratic Party went from being a largely pro-life party (and, not coincidentally, the party of choice for American Catholics) to a monolithically pro-abortion-rights party (and the party of choice for American anti-Catholics). It is poignant to read the emphatically anti-abortion statement, made two years before *Roe*, of Massachusetts Senator Ted Kennedy, who declared that “the legalization of abortion on demand is not in accordance with the value which our civi-

lization places on human life.” There are similar statements from the likes of Paul Simon, Jesse Jackson, Dick Gephardt, Bill Clinton, and other Democratic stalwarts. Such words now seem to emanate from a time impossibly long ago, a time when an ur-Democrat like Hubert Humphrey could speak of his political brethren as the guardians of “those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy, and the handicapped.” But in fact, it was not so very long ago at all. A great deal has changed, and very quickly.

For all of its virtues, however, *The Party of Death* has very considerable flaws, and one’s admiration for it has to be tempered by a reckoning with its shortcomings. One could begin with the most obvious flaw: the book’s title (and organizing concept). Ponnuru claims in his introduction that his use of the term “party of death” is meant to be “descriptive” rather than “pejorative,” that his book “does not seek to wound,” and that he did not use this title merely to “raise the temperature.” But saying such things, of course, does not make them so, nor does it insulate one from the charge that one has done the exact opposite of what one says one is doing. The fact is that the book is unabashedly polemical, exuberantly pejorative, and frequently *ad homi-*

*nem* and disparaging, even mocking, towards its opposition. I don’t believe Ponnuru needs to apologize for such things. But one can’t have it both ways. Red-meat preaching to the faithful is one thing, and patient conversion of the wavering quite another. We already have plenty of the former; I wish he had used his considerable intelligence to do the latter instead, since the latter is in such desperately short supply.

Moreover, the problem with the term “party of death” is not just a matter of misguided tactics, but also one of mistaken strategy. The term is simply not very accurate or helpful in identifying the phenomenon to which it is applied. When we use the words “party of,” we link them to a noun that denotes the thing we wish to promote. The party of labor, the party of business, the party of memory, the party of hope, and so on. So how is this group of activists, politicians, doctors, and scientists a party “of death”? We are not here talking about a cult that romanticizes emotional purgation or spiritual completion through violent death, or that yearns for heroic oblivion and the obliteration of the self. We are not talking about the oceanic yearnings of Whitman’s “Out of the Cradle Endlessly Rocking,” or the eroticism of death in Wagner’s “Liebestod”—let alone the murderous fantasy world of nihilists, jihadists, and suicide bombers. (We perhaps get a glimpse of these things

in the strange death-attraction of a Dr. Jack Kevorkian, but he remains clearly on the pathological fringes of the phenomenon being described in Ponnuru's book.) It simply does not aid anyone's understanding of the matter to describe the cure-seeking advocates of embryonic stem-cell research as "partisans of death." I am not talking here of the term's possible offensiveness; I am talking purely about its descriptive accuracy and its analytical value.

Indeed, I believe the term misleads us, by dividing the world up in the wrong way. The party in question is not in love with, or advocating for, death. It is in love with, and advocating, a short-sighted and impoverished vision of life: the dream of complete and unconstrained personal mastery, of the indomitable human will exercised on the inert and malleable stuff of nature by the heroically autonomous and unconditioned individual, who is ever the master of his fate and captain of his soul, and whose own existence is, or deserves to be, infinitely extendible. It eagerly embraces the Jeffersonian dictum that the earth belongs to the living, and rejects the Burkean idea that society is an eternal contract between the living, the dead, and the unborn—a contract that is most powerfully manifested in the primal strength of family bonds, and that serves as a profound form of prior restraint upon the individual's room to maneuver. Such constraints are

rightly cast off, it is thought, as the dead weight of memory.

Such a view may seem coolly rational and unsentimental, the very picture of enlightened and progressive science. But its instrumental rationality actually operates in service to the most gaudily romantic ideas of selfhood. It regards the abstraction of the liberated individual, of *Homo invictus*, as the benchmark reality, the only true source of moral standing. By grounding moral judgment in the self's ability to stand alone and radically independent, it must seek to deny history, and even deny time itself, instead seeking to freeze the present and then utopianize it, freezing in place the youth and beauty and strength that are one's own, or that one can acquire for oneself, whatever the cost to the future (or to the past). But independence is all-important in this picture of reality. For the minute one's ability to be independent falters and fails...well, then the game is up, and all entitlements are rendered null and void.

Abortion, euthanasia, assisted suicide, the cannibalization of embryos—all these things are linked, but they do not reflect a desire to promote death per se. Instead, they reflect a world in which the overwhelming desire of the sovereign individual will to have its way, and to order and manufacture a world that it can live in without let or hindrance, is regarded as the chief source of value, or at any rate the value that trumps all others. They reflect a view of life that trivial-

izes death, precisely because it fails to understand what life is.

But life is unfreezable, and complete independence is a sterile fantasy, inconsistent with our human nature. That nature speaks to us continuously of the organic interdependency of things, the seasonality of things, of a world churned and roiled by the endless process of aging and decay, and the miraculous generation of new life out of them—the ebb and flow of what the ancients called “generation and corruption.” The recognition of these things, and the acceptance of our place in them, is precisely why we care for the infirm and the weak and the hopeless among us, rather than feed them to the sharks, particularly when they are flesh of our flesh, or we of theirs. We do not do it because we believe in the abstract idea of the natural rights of each and every human being, although such beliefs are helpful and true, and valuable for the durability of American democracy. We do it because our human nature beckons us to, if we are to play out our part in the circle of life, the order of things, the drama of fecundity and endless generational succession. This capacity for grateful, self-giving love for our forebears, and willingness to yield the stage to our successors, is the crowning virtue of the human heart, precisely because it recognizes and accepts that the unfreezable present is always being swamped and superseded by the onrushing tide of what is new.

One can agree completely with Ponnuru’s position on rights, and yet feel that too much is left undressed by it. We are already too much a culture of “rights talk,” and the individualism inherent in rights talk does not help us understand one of the most important facts about our moral development: that we are deepened and made better, more fully human, by the experience of yielding to inconvenience and making good on our obligations to others, especially in relations, such as those with our families, that are not voluntary, not revocable, and have played a crucial role in defining who and what we are. This yielding includes accepting the burdens of caring for the helpless, the damaged, the infirm, the dying, the suffering, and yes, the unwanted. To say that we do not kill them because they have a right to life is not to explain why we have a responsibility to care for them, and love them, and why we fail ourselves when we fail to acknowledge that responsibility, and seek to offload it onto others. An ailing elderly parent has the right not to be killed, but he does not have the “right” to be loved.

Yet it is one of the central tasks of our humanity that we care lovingly for him, and not merely be instructed by the law that we must resist killing him. “Rights talk” does not necessarily give rise to “responsibility talk.” Sometimes it may have the opposite effect, in luring us into a false sense that we have fulfilled all righteous-



ness merely by dutifully observing the rights of others. One of the many fallacies behind the legal instrument of the “living will” is the thought that the “right” of the abstract individual to decide his medical fate—often basing the decision on ignorant and meaningless projections into a future that few of us can imagine, let alone predict—should take complete legal precedence over the loving input of families on the scene. This is not only a fallacy in practice, since living wills are generally set aside when they get in the way, but a fallacy in theory, since we are never entirely our own, and least of all in moments of profound dependency.

The energies that bind the family cannot be accounted for by rights talk. This is why merely drawing a bright red line of “rights” around the act of embryo destruction, desirable as that is in so many respects, does not really solve our problems. It is not at all hard to imagine a world in which a general desire to boost birth rates, in tandem with technological advances such as the perfection of the artificial womb, would lead governments to make liberal and even systematic use of frozen or “surplus” embryos to repopulate their declining countries. Such developments would fully respect the embryonic right to life, but it would do so in an otherwise ghastly way, by eliminating the need for childrearing parents, and indeed for the natural family itself. It is not the least bit far-fetched to

imagine that the “snowflake babies” of today could become the “state babies” of tomorrow, absent a strong commitment to the idea that the individual right to life is not sufficient unto itself, and cannot be separated from our protection, in mores and in law, of the normative human context in which it arises. An emphasis on the inviolability of individual rights, particularly when it is offered without a similar stress on the actual institutions within which individual human lives come to fruition, oddly mirrors the very radical individualism it seeks to counter.

**I**t is this commitment to radical individualism, this aspiration to human mastery, the godlike mastery of the sovereign will of those living here and now over all they survey and encounter, the ability to control and dictate the terms of existence, that distinguishes the so-called “party of death.” Such an aspiration is perhaps most ominously figured, not in the abortion industry, but in a different prospect, about which Ponnuru has surprisingly little to say: the very real possibility that our biogenetic mastery will give us the power to replace human procreation with the willful arts of manufacture, remaking our condition by engineering human life and “hybrid” forms of transhuman life.

Ponnuru is downright enthusiastic about the prospect of deriving pluripotent stem cells, for medical purposes,

from certain nonviable, manufactured, human-like “biological entities” that carry the human genetic code but are not human embryos. What is more, he is surprisingly disdainful of critics who find such a prospect morally troubling. What, one wonders, if his concern were less exclusively focused on the narrow question of what constitutes embryo-killing, and more broadly on the ways that our readiness to destroy embryos is but one symptom of a larger problem, the way in which our ever-expanding exercise of our scientific powers of manipulation may be causing us to lose all sense of nature as a source of normative values? Such thoughts might have led to a more guarded conclusion. This is not to render a judgment about the specific procedures in question, except to say that they may themselves not be entirely morally unproblematic, even if they seem clearly preferable to embryo destruction. But it is to indicate a way in which Ponnuru’s overriding concern with the politics of abortion, and with an argument based on the natural rights of the individual human being, tilts his argument out of balance, and makes his book far less illuminating than it might have been. Natural rights, after all, have no authority apart from the larger authority of nature.

Nor do they easily admit of exceptions, which brings us to a problem that arises in Ponnuru’s caustic account of Mario Cuomo’s

1984 Notre Dame speech. Ponnuru takes particular delight in attacking Cuomo’s claim to be following in the prudential footsteps of the Civil War-era American Catholic bishops, and of Abraham Lincoln. But Ponnuru gets carried away, asserting categorically that “Lincoln never accepted the existence of a right to own slaves.” Never? What about, for example, in his Kansas-Nebraska speech of October 16, 1854, a bitter lament over the repeal of the Missouri Compromise? Let me quote it at some length to give an idea of the moral complexity of Lincoln’s thinking and moral reasoning in this instance:

...I have no prejudice against the Southern people. They are just what we would be in their situation. If slavery did not now exist amongst them, they would not introduce it. If it did now exist amongst us, we should not instantly give it up. This I believe of the masses north and south....When southern people tell us they are no more responsible for the origin of slavery, than we; I acknowledge the fact. When it is said that the institution exists; and that it is very difficult to get rid of it, in any satisfactory way, I can understand and appreciate the saying. I surely will not blame them for not doing what I should not know how to do myself. If all earthly power were given me, I should not know what to do, as to the existing institution. My first impulse



would be to free all the slaves, and send them to Liberia,—to their own native land. But a moment's reflection would convince me, that whatever of high hope, (as I think there is) there may be in this, in the long run, its sudden execution is impossible. If they were all landed there in a day, they would all perish in the next ten days; and there are not surplus shipping and surplus money enough in the world to carry them there in many times ten days. What then? Free them all, and keep them among us as underlings? Is it quite certain that this betters their condition? I think I would not hold one in slavery, at any rate; yet the point is not clear enough for me to denounce people upon. What next? Free them, and make them politically and socially, our equals? My own feelings will not admit of this; and if mine would, we well know that those of the great mass of white people will not. Whether this feeling accords with justice and sound judgment, is not the sole question, if indeed, it is any part of it. A universal feeling, whether well or ill-founded, can not be safely disregarded. We can not, then, make them equals. It does seem to me that systems of gradual emancipation might be adopted; but for their tardiness in this, I will not undertake to judge our brethren of the south.

When they remind us of their constitutional rights, I acknowledge them, not grudgingly, but fully, and fairly; and I would

give them any legislation for the reclaiming of their fugitives, which should not, in its stringency, be more likely to carry a free man into slavery, than our ordinary criminal laws are to hang an innocent one.

But all this, to my judgment, furnishes no more excuse for permitting slavery to go into our own free territory, than it would for reviving the African slave trade by law. The law which forbids the bringing of slaves *from* Africa; and that which has so long forbid the taking them *to* Nebraska, can hardly be distinguished on any moral principle; and the repeal of the former could find quite as plausible excuses as that of the latter.

Note that not only does Lincoln here clearly “accept the existence of a right to own slaves,” but he pointedly refrains from categorically denouncing all slave-owners, reserving his ire for those who would introduce slavery to the territories or revive the slave trade. And he clearly, if disappointingly to our ears, expresses his views on the matter of political and social equality. Yes, Lincoln was consistently opposed to the institution of slavery, and later in the speech makes clear his belief that even though slavery was a legal right, it should not be therefore adjudged a moral right. But he was no abolitionist, at least not until the war came, and fell far short of being a perfect exponent of universal human rights. He consistently

placed the preservation of the Union ahead of the antislavery cause. In 1854 he was speaking passionately on behalf of the restoration of the Missouri Compromise—and passionately lamenting the loss of “the spirit of compromise.” He was emphatically supporting the full and thorough enforcement of fugitive slave laws. And he was deferring to the racial opinions of his fellow whites, opinions he admitted sharing.

I dwell on this not to condemn Lincoln, whose prudent leadership I admire and feel grateful for, but to make sure that we are seeing the real lessons of the real man, and to underscore the fact that incrementalism in political practice is an exceedingly messy and frustrating process, which cannot go a great deal further than public opinion or events will accommodate. It is not likely to find much success through the mechanical repetition of abstract principles that the citizenry is disinclined to embrace—and a good politician knows that. Indeed, excessive reliance on unbending abstract principles in such debates can have the entirely unsought effect of rendering the Lincolnian “spirit of compromise” ineffectual. It would be ironic indeed if a position that insists upon assigning the full panoply of basic rights to every individual fertilized egg would have the unintended political consequence of making impossible a workable compromise that would confine abortion to the earliest stag-

es of pregnancy, a positive development that most Americans would welcome. But in politics, the best very often is the enemy of the good. That recognition was surely at the heart of Lincoln’s intense commitment to “the spirit of compromise.” Today, it should guide those, like Ponnuru, who see even the earliest embryos as rights-bearing persons, but who need to accept that living in an imperfect world often means accepting imperfect limits on injustice, perhaps indefinitely.

Here too Ponnuru seeks to have it both ways, seeing no incompatibility between taking both the high ground of abstract principle and also staking out the lower ground of incremental change, compromise, and pragmatic recognition of the limited range of political possibility. Readers of his book will have to judge for themselves whether he is successful in achieving that reconciliation of opposites, or whether, as was the case for me, his politics-minded final chapter, entitled “Life After *Roe*,” seemed completely at odds with the thrust of the rest of the book. Its tone approaches complacency, seemingly designed to reassure panicky readers that the striking-down of *Roe v. Wade*, should it occur, would cause “a return to political moderation,” which would in turn go “a long way to defusing America’s ‘culture wars.’” Somehow this new climate could also give rise to a restored “sense of the sanctity of life” in America, but the

book offers not a shred of explanation as to just how this will happen. Perhaps Ponnuru is right that, in a calmer climate, otherwise decent people who have gotten themselves dug into intransigent positions can actually take the risk of opening their eyes, and allowing themselves to reconsider the full horror of the practices they have been endorsing. But if that is true, it is equally true that such a return to moderation would not be furthered by books with titles like the one Ponnuru and his publisher chose.

This is not to imply that the reconciliation of principle and incrementalism is impossible. Indeed, many of us regard it as the hardest and most admirable path. But to be plausible such an effort has to provide some way of reckoning matters of degree, and distinguishing between better or worse, or bad and worse. The thrust of *The Party of Death*, however, is to deprive us precisely of the means of making similar distinctions in a principled way. One has to have forgotten about the rights arguments in the book's earlier chapters in order to feel comfortable with the calculating political arguments in the final one. The final effect is less one of reconciled opposites than of simultaneously asserted ones.

This is not to deny the logic in Ponnuru's argument, only to point out its serious limitations. One can wish the world were more like the Oxford Union. But in reality, the pub-

lic is moved, and minds are changed, and whole cultures are transformed, far less by forensic skill than by other forms of persuasion. Ponnuru rightly points out that public opinion on abortion has shifted in recent years, and that mostly because of carefully targeted issues, notably the effort to ban partial-birth abortions and to protect born-alive infants who survived abortion attempts, efforts that changed minds by exposing the pitiless extremism of the abortion-rights movement. It is less clear that any significant shift has taken place with regard to early-term abortions, although the steady advance of technologies that allow us to see inside the womb, and see the development of fetal life, have made it harder to regard the fetus as a blob of undifferentiated "potential life." Indeed, this kind of visual evidence may be far more potent, in the long run, than the mere invocation of the right principles.

To be sure, not all the important questions facing us can be easily addressed by such evidence. The very tininess and invisibility of the embryo are adduced as reasons why its destruction is a matter of no great moral consequence. But like it or not, the fact remains that our public moral discourse is most responsive to what is visible and tangible, since it is through appeals to sight and imagination and story that these issues are best brought within the public's affective circle. One of the

chief forces that shifted Northern antebellum American public opinion about slavery was a work of fiction: Harriet Beecher Stowe's *Uncle Tom's Cabin*, the best-selling American novel of the nineteenth century. And it succeeded not because of its cogent preaching on questions of abstract individual rights or abolitionism, but because it appealed, vividly and emotionally, to antebellum Americans' sense that slavery was wrong because it so brutally and pitilessly violated the sanctity of the family, the most treasured and cherished of all middle-class antebellum social institutions. In so doing, the book went straight for the age's emotional and spiritual center of gravity. It succeeded because it endowed its black characters with undeniable dignity, and brought the reader to identify with their suffering. And it succeeded all the more because it showed that one of the worst aspects of slavery was its degrading effect upon the master class itself. In other words, it demonstrated the wrongness of the institution by showing,

in a powerful and plausible way, its awful consequences.

The point about slavery's reciprocal effects was one that many others, including Thomas Jefferson himself, had already made about slavery in the past, and a point that Lincoln was fond of making also. But it was the vividness of Mrs. Stowe's novel that gave the point sufficient moral weight to change people's minds. Which is to say that her contribution was not to debate, but to vision; and its logic moved its readers, not forward from abstract premises, but backward from visible consequences. It brought slaves inside the affective circle. There is almost certainly a lesson for the present in this, a lesson about the kind of books we need but don't yet have.

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