

## CORRESPONDENCE

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### Principle, Prudence, and the “Party of Death”

Wilfred McClay is always thoughtful, always wise, and almost always careful—but his review of my book *The Party of Death* [“Beyond the Right to Life,” Fall 2006] is, in that last respect, an exception that proves the rule.

Take, for example, his comment that I am “surprisingly disdainful of critics” who object to the creation of disorganized biological entities that can serve as alternative sources of pluripotent stem cells. It is true that I support the project of finding such ethical stem cell sources, and note in the book that research in this area has promise. While I do not disdain critics such as McClay, I do wish they would spell out their particular objections so that I could evaluate them. In dealing with this topic, moreover, my book criticizes only a subset of such critics: those who favor creating and killing human embryos for research, but oppose alternative methods of producing pluripotent stem cells without destroying embryos. (I mention Professor Michael Sandel and Senator Tom Harkin.) It should not be surprising that I consider this combination of positions perverse.

Or take McClay’s long discussion of Lincoln. He takes issue with my claim that “Lincoln never accepted the existence of a right to own slaves.” But he does not read that sentence with charity or common sense, or in the context of the sentences that follow it. I was not denying that Lincoln understood that the longstanding and widespread practice of slavery made it difficult to uproot the institution. It would

be absurd to deny that. Lincoln was well aware that recognizing slavery’s unjustness was a beginning, not an end, to statecraft. My point was rather that Lincoln never denied the legitimacy of governmental action against slavery. The distinction I made between Lincoln’s prudent opposition to slavery and Mario Cuomo’s “personally opposed” line on abortion holds. Nothing in the long passage from Lincoln that McClay quotes even militates against my point, let alone refutes it.

I think the title of the book is defensible, but its defense is unimportant. Here again, however, McClay is unwontedly careless. He has me claiming that the phrase “the party of death” is not meant to be “pejorative,” and insinuates that I am being dishonest in so saying. Here is my full sentence: “The phrase is meant to be descriptive, not (purely) pejorative.” Of course there is a pejorative element to the phrase—one I embrace and try to defend over the course of the book.

McClay thinks that for the phrase to live up to its billing, the people who hold the views I criticize would have to be shown to have some romantic attraction to death. I find this odd. First of all, I expressly disavow any such meaning to the phrase. In one of the book’s two discussions of the phrase, I quote abortion and euthanasia defender Ronald Dworkin’s claim that these acts are both “choices for death” and add: “Dworkin was not saying that the choice to have an abortion or to euthanize someone is necessarily made out of a sick love of death for its own sake.”

Second, it is simply not true that our usage of phrases of the type “the party of

[blank]” invariably refers to a group of people who promote [blank] as an end in itself. Take, for example, the polemical labeling of hawks as “the war party.” Few people who use that phrase seriously mean that hawks love war for its own sake; they mean to imply that they are too prone to justify the launching of wars as a means to their ends. (And few hawks make a big indignant show of resenting the phrase.)

Closely related to his criticism of my title is McClay’s contention that the book is “frequently *ad hominem* and disparaging, even mocking, towards its opposition.” I plead guilty to making a crack or two: about Dennis Kucinich’s conversion to the pro-abortion position, for example, or the *New York Times’s* aversion to the phrase “partial-birth abortion.” I mock actions I regard as contemptible (such as Kucinich’s) and arguments I consider risible. But the characterization of the book as a long exercise in *ad hominem* attacks is unfair, especially when McClay offers no examples.

McClay argues that what unites the partisans of abortion, euthanasia, embryo-destructive research, and infanticide is not their willingness to deliberately cause the death of human beings, but rather their support for the imperial self. My book, he believes, fails to challenge their worldview as deeply as it should. Its focus is too limited: It says little about the possibility that governments will use “surplus” human embryos and artificial wombs to repopulate their countries, an evil that would not violate the principle against homicide that my book defends. The book, he says, articulates only the minimal duty of not killing human beings, and not the obligation to love and care for them. It engages in “rights talk” that promotes the very same excessive individualism that lies at the root of our problems.

This line of criticism strikes me as a tangled mess.

There is obviously something to the idea that excessive individualism is related to the maladies with which my book is concerned. But the motives that lead people to commit, or support, abortion, euthanasia, and the rest are various. In all cases, they involve deliberate choices either to kill human beings, or to deny to certain classes of humans elementary legal protections enjoyed by the rest of us. But they do not in all cases involve excessive individualism in any direct way. A diagnosis of runaway individualism only very loosely fits what a supporter of “mercy killing,” for instance, has in mind. He may indeed regard mercy killing as part of his duty toward someone he loves. Perhaps I did not go deeply enough into the varied motivations that lie behind some of the views I criticize. Had I gone down McClay’s road, however, I would have been more, not less, vulnerable to the charge of making *ad hominem* arguments.

I think the belief in “mercy killing” is profoundly misguided. I have made an argument for why I think so. McClay pokes no holes in that argument, and indicates that he agrees with it. If he does, then his “rights talk” talk loses its force. Either human organisms in the embryonic stage of development have a right to life, or they do not. If the words “the right to life” give you the hives, let’s replace them with their functional equivalent: Either government has a duty to protect such organisms from deliberate destruction, or it does not. If you deny these propositions, then the claim that affirming them reinforces a dangerous individualism is superfluous. If you affirm them, then it is a non sequitur. The question is not whether individual rights can be taken too far, but whether such

organisms possess any rights (or, again to avoid that word, are owed any duties as a matter of fundamental justice) at all.

Again, McClay indicates that he agrees with my argument. But he faults it for not having the emotional force that he wishes it had, and for not adding up to *Uncle Tom's Cabin*. That is a frivolous criticism, as is the notion that my book should have dealt with every hypothetical danger posed by biotechnology. As McClay's dystopian scenario suggests, the principle that all human beings have a basic right not to be killed does not answer every biotechnological question. But why should one master principle have this kind of power? Should we be disappointed that it doesn't?

One last criticism by McClay muddies the waters even further. He writes that we

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...

Here McClay is contradicting himself in the span of two sentences. Of course we have to "accept" that there are limits to how just we can make our society, at least if such acceptance does not entail approval of the injustice. But if that is what we should do, then doing so can't be damned

as "having it both ways." Recognition of the demands of justice and the limits of our ability to achieve it can be mutually compatible—we can know what the ideal would look like, and use that knowledge to guide our efforts, even as we also know that those efforts will only move us in the right direction but never get us to the perfect outcome. The book urges us to approach justice in precisely this asymptotic way. If McClay disagrees, he should explain why.

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WILFRED M. MCCLAY responds: I'm afraid that the "tangled mess" Mr. Ponnuru has described is his own creation, a quilt of bits and pieces of my arguments pulled from different parts of the essay and stitched together in a fashion that bears little resemblance to what I said. Under the circumstances, then, I think the best thing for me to do here is to try to clarify my arguments, rather than try to respond point by point.

To begin with, I said that the term "party of death" badly misleads us, by misdescribing the nature of the problems before us. In each of the cases he mentions, from abortion to infanticide to the euthanizing of the elderly, there is a similar root assumption: the assumption that the earth properly belongs to the living generation of biologically mature, healthy, and autonomous individuals, and that there is nothing in the natural order which that generation is obliged to respect, nothing we should refrain from doing in the quest to remold that order in accordance with our own desires. In other words, I am making an argument not merely about individualism but about the integrity of the natural order, including the natural family (about which Ponnuru has nothing to say),

and about the wrongness of human efforts to claim total mastery over that order, and subordinate that order entirely to our wishes. I also tried to stress that natural rights—and Ponnuru must perforce be grounding his conception of “rights” in nature, even though he for some reason does not want to use the term, and does not want to talk about where and how “rights” are grounded—cannot have any meaning when the normative meaning of “nature” itself has been evacuated.

That is why I am more troubled about the systematic creation and exploitation of human-esque “disorganized biological entities” than Ponnuru is, why I am not cheered by the prospect of a world populated by parentless “snowflake babies,” and why I think that drawing a red line around embryo-destruction while failing to address all kinds of other questionable manipulations of human genetic material represents a grave failure to think the matter through adequately. The prospect of human cloning, for example, is of concern to Ponnuru in his book only insofar as it might involve the destruction of embryos. But surely this vastly understates the moral gravity of the issues involved. Certainly human cloning, including all-out reproductive cloning, falls within the same cluster of “life” issues as all the others. This is perfectly obvious. But one cannot explain what is wrong with reproductive cloning by regarding it, as Ponnuru’s criteria require us to do, strictly through the lens of abortion politics.

This is not a matter of my insisting upon a “master principle” that answers every question. It is, rather, a matter of finding the most truthful and adequate perspective on these human-life issues—one that will help us, or so I believe, to understand better the deeper reasons behind the obvi-

ous connection between all of these disparate developments. Invoking “the party of death” doesn’t help us at all. It treats abortion as the foundation for understanding all the life issues, rather than seeing it as one very important element in a much larger complex of issues.

Indeed, I think Ponnuru’s interpretive framework makes it a great deal harder for us to think clearly about the moral environment we are moving into. I spoke in my review of the “pitiless extremism” of certain elements of the pro-abortion movement. But there is extremism of another sort that also must be guarded against, and adoption of Ponnuru’s conceptual framework makes that defense much harder. There are influential people in the pro-life movement who do not care how or where babies are born so long as no embryo dies in the process. With Ponnuru’s understanding in place, why should they? There are those who objected to the recommendation of the President’s Council on Bioethics for legislation banning the placement of human embryos in the bodies of animals, on the grounds that, to save the life of an embryo, they did not wish to rule out the possibility of giving that embryo a pig, or some other animal, for a mother. Again, a prospect whose hideousness ought to be obvious, but by Ponnuru’s logic, what’s wrong with it? Some oppose a legislative ban on post-viability abortions out of a fear that, if such abortions are illegal when *Roe v. Wade* is overturned, it will be harder to ban all the rest. This last is a particularly vivid example of what I meant when I said that Ponnuru’s insistence upon assigning the full panoply of rights equally to every fertilized egg, at whatever stage of development, could lead to ironic and tragic—and, frankly, callous and irresponsible—political consequences.

In other words, my principal disagreement with Ponnuru is far less over specific issues—as he says, we probably disagree about very little in that regard—than over the overarching interpretation he applies to the moral meaning of those issues. I can understand his desire to draw a clear and legally enforceable line somewhere. I can completely understand his desire to compress the whole problem into an either/or statement about embryonic “rights.” Or, as he rephrases it in a curious modulation into a more deontological key, about governmental “duties.” But when such compression serves only to distort the issues at stake, it should be resisted. I think there are far better ways to address these problems, particularly if we are to solve them in a reasonable and nonviolent way, through the channels of democratic institutions.

As he himself implies when he brings government into the discussion, the issues involved are not merely philosophical but also political. So let us ask: where, in a democracy, do we derive our sense of where the “rights” of individuals are grounded, or of what the “duties” of government are? I have already made a point about the necessity of a robust concept of “nature” in the first case, so let’s look more closely at the second. How do we ascertain and express the duties of government? Ultimately, we do it through the consent of the governed. The people are sovereign. There is no source of legitimate and binding duties that is independent of their say-so in the American system. We do not pull our understanding of duties out of thin air. And Ponnuru has himself explicitly forsworn any resort to religion in his arguments, so that source is off the table here.

Like it or not, it is the common sense of the American people that there are differences between the respective moral stand-

ing of embryos, fetuses, infants, adults, and the elderly. I think we can, and should, improve upon that common sense. I hope that we will in the years to come. No enduring moral progress will be possible without such general improvement. But I also think we can elevate the standing and protection of all forms of human life without resorting to a coercive reductionism.

As for the final paragraph of Ponnuru’s letter, I think that it should be clear by now why I found such a dramatic disjunction in his book between his highly deontological moral reasoning and his highly pragmatic approach to politics. This is not the same thing as having an ideal and working toward it incrementally or asymptotically. It is working on two entirely different planes at once. It is talking like William Lloyd Garrison but acting like Daniel Webster. Perhaps there is room in the American political system for both kinds of man. But trying to be both of them at the same time is a recipe for complete incoherence.

Let me put it more simply. What Ponnuru’s book does, albeit probably unintentionally, is put forward the very kind of moral reasoning that undergirds the all-or-nothing fanaticism that I have described above. To affirm incremental reform, one has to have a theory of how incremental reform is both morally possible and desirable. But how does one have reasonable commerce with a “party of death”? To be able to make the kind of discriminations that incremental public policies require, one needs to have a principled basis for arguing for those discriminations, for making judgments between greater or lesser evils. But where is that basis to be found? Ponnuru’s way of reasoning not only provides us with no such basis, but it seeks to take away from us the bases we naturally (if unsystematically) employ. He leaves us with no good

reason to distinguish between the rights of an embryo and the rights of a fetus, or the rights of a fetus and the rights of a newborn. This is the mirror image of the ghastly logic of the world's Peter Singers and the last-ditch defenders of partial-birth abortion. We can do better than either one.

My point in my lengthy quotation of Lincoln was precisely to show that the man himself, contrary to Ponnuru's misstatement of his position, had a complicated view of the rights of slaves and slaveholders, one that involved making all sorts of discriminations which we would today find unacceptable, but that amounted to a certain rough political prudence in his own day. He could not have taken those positions, or later sustained the exceptions built into the Emancipation Proclamation, if he had been required to answer questions

about slavery in the categorical terms that Ponnuru favors.

And let us remember that Lincoln's incrementalist compromises, which we all admire so much, failed miserably in the end. We did have a civil war after all. Whether that war could have been averted, whether incrementalist compromises could ever have worked, these are questions that will always burn at the heart of American history. They are questions that will always be asked, and can never be finally answered. But this much can be said: There is a very strong case to be made that the intransigent all-or-nothing rhetoric of fanatics North and South made war more, rather than less, likely, and ensured that Lincoln's incrementalist compromises would never have a chance. He who has ears to hear, let him hear.

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