

Fictions, Fallacies, and Pro-Choice Rhetoric

Recall for a moment a telling scene from Shakespeare's *The Merchant of Venice*. Antonio, upbraiding Shylock because he has quoted Scripture to whitewash his unjust and irreligious practice of usury, declares: "O what a goodly outside falsehood hath."

This article attempts to do for a representative example of pro-abortion rhetoric what Antonio did to Shylock's pious justification, viz., to expose the "falsehood" behind the "goodly outside." This article offers an ethical assessment of oft-heard pro-choice assertions by answering the following: What can be false about a position that, to various people in varying degrees, sounds plausible and convincing?

Center stage, then, in this ethical evaluation, are the following components of a pro-choice position as taken from the 1st Quarter 1989 *Newsletter* of Planned Parenthood of Houston and the March/April 1989 article in *The Humanist* by Dr. Warren M. Hern, "Abortion is Insurrection." This position holds that an overturn of *Roe v. Wade* will be:

- "a cultural counterrevolution"
- a blow to "feminism and equal rights to women"
- a deprivation of women's "reproductive rights"
- an enslavement to "prefeminist traditional roles of motherhood."

Since assertions are only as true as their underlying premises, the remainder of this article will identify and assess the validity of three of the premises upon which this pro-choice position is constructed.

The Neutralization of Denial

Freudian psychology outlines various types of defense mechanisms that human beings resort to in order to shield themselves from a painful reality. One of these is denial. Now denial of reality, although a natural and perhaps therapeutic reaction initially, is

potentially psychologically debilitating if it is prolonged. What is important to our discussion is that prolonged denial is not something confined to the individual. It can also plague whole segments of society.

Pro-abortionists, for example, not even paying lip service to the personally calamitous effects of continual denial, are banking on the fact that many in society will follow their lead. All one has to do is to ignore the painful question of whether the object of abortion, the preborn child, deserves our protection. Toward that end, then, pro-choicers present abortion, first, as something akin to getting a bunion removed or a benign tumor excised. All the woman is doing, after all, is ridding herself of a blob of tissue, a mass of cells, or as Joseph Fletcher euphemizes, fallopian and uterine cell matter (see "Ethical Aspects of Genetic Controls", *New England Journal of Medicine*, Sept. 30, 1971, p. 72).

Second, abortion is not discussed as a life-death issue but as a rights-choice issue. Casting the abortion debate in the context of choice completely eliminates the unpleasant and potentially painful notion of

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the principal pro-life argument: abortion is murder. Who, after all, wants to look at or deal with those disgusting posters depicting obviously human forms of aborted fetuses?

The reader is directed back to the assertions being evaluated. Nowhere is there mention of the one being aborted nor of his right to life. One of the underlying premises of the pro-choice position, then, is this: The abortion debate can only be won if we deny the relevance of the being in the womb, the preborn child to be aborted.

The Deification of Choice

There is a dimension of the Catholic consequentialist/proportionalist (or revisionist) moral theory which some have described as the ethics of responsibility (see Haring's *Free and Faithful*). An objective evaluation of this moral methodology reveals that it is rooted in a basic conviction that the primary good of moral action is personal choice. In other words, what one chooses is not as important as the fact that one can choose from a maximum of alternatives.

This view of morality, taken to its logical conclusion and wedded to unbridled individualism, is at the heart of the credo of the pro-abortion agenda. Free choice is an end in itself. In fact, the self-designated title, pro-choice, underscores this point. Furthermore, the individual chooser is free to declare that one's choice is the morally acceptable choice; no other right can supercede the right to choose. In such a schema there is only one good: the ability or freedom to choose and only one moral evil: the lack of choice.

A second premise, then, that characterizes pro-choice rhetoric, including the assertions quoted at the outset, is this: Abortion is not a life-death issue but a rights-choice issue. No right supercedes the woman's right to choose an abortion.

The Triumphalization of Judicial Positivism

Charles E. Rice points out in his book, *Beyond Abortion: The Theory and Practice of the Secular State* (Chicago: Franciscan Herald Press, 1979), the morally crippling influence of positivism (we cannot know what is objectively good) and secular humanism (we cannot know whether God exists) on American society and its democratic processes.

The liaison of these two "isms" spawns all sorts of illegitimate progeny. Legal and judicial positivism are two of them. First, since positivism asserts that we cannot know the objective good, the Courts or the laws step in and decide for us. (Compare the popular belief that what is legal is moral.) Second, since secular humanism tells us we cannot know whether God exists, we cannot appeal to Divine Law as the "supralegal arbiter" for the meaning of the

Constitution; the people must decide. And, in our representative form of government, the President, the Congress, or the Supreme Court declares the decision of the people.

In *Roe*, Rice contends, we have a perfect example of "triumphant positivism." The Supreme Court, assuming the role of supralegal arbiter, ruled that the right of the woman to decide to abort her baby is protected under the Constitutional right to privacy. The preborn child, said the Court, is a "potential life," i.e., not a person as defined in the Fourteenth Amendment and, therefore, cannot be guaranteed the right to life.

Where did this right to privacy come from? one might ask. Some of the Supreme Court Justices decided that there are *substantive* due process rights (like the right to privacy) which, although not specified by the terms of the Fourteenth Amendment or elsewhere, can be reasoned to by considering what is *implied* in the Due Process Clause of the Fourteenth Amendment. Justice Douglas, in *Griswold v. Connecticut* (1965) set this precedent: One might also find such a right in the "penumbra" relating to personal privacy emanating from the Bill of Rights.

In other words, the woman's freedom to choose to abort her baby as allotted to her under the right to privacy is "an arbitrary determination by a judicial body with only the most modest connection to the text of the Constitution" (Carl Anderson, "The Supreme Court and the Economics of the Family," *The Human Life Review*, Vol. 14, No. 4, 1988, p. 44).

A third identifiable premise to the statement under consideration, then, amounts to a legal naiveté: An enacted law is synonymous with a just law. What it fails to admit is what the Dred Scott Case (1857) dramatically underlines: An enacted law can conflict with justice (the higher law), and when it does it must be rescinded on grounds that it is a "lawless law."

Conclusion

If you can see the fallacy (or fiction) of any of the following - 1) that the abortion issue must be debated without any reference to the preborn child and its right to life, 2) that the abortion issue is about the woman's right to choose and that this right cannot be superseded, and 3) that laws and judicial decisions need not be judged in light of justice (i.e., the higher law, natural law) for their validity—then you have seen through the "goodly outside" of the pro-choice assertion we have just analyzed.

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