

The Afterparty of Death

Ramesh Ponnuru

I.

The Party of Death was the first mass-market pro-life book in a generation. Bernard Nathanson's *Aborting America* came out in 1979, the same year as John Noonan's *A Private Choice*; President Reagan's *Abortion and the Conscience of a Nation*, first published in *HLR*, followed in 1983. Since then, however, only religious and academic publishers have touched pro-life books. By way of contrast, major publishing houses released books by Kate Michelman, Gloria Feldt, and Cristina Page making the case for abortion just during the months I was working on *The Party of Death*.

By the time I sat down to write, a lot had changed since the early 1980s. The debate over abortion had become a debate over abortion, embryonic stem-cell research, and euthanasia. Here and there respectable organs of opinion were trying to widen the field still further, to include infanticide. When Nathanson and company wrote their books, Democratic voters were still more likely to be pro-life than Republican voters were. The debate over abortion had transformed both parties.

The vectors of public opinion had also changed since those earlier pro-life books appeared. Sonograms had become more advanced and more widely used. The practice of partial-birth abortion had come to light, re-energizing many pro-lifers, and embarrassing many who are pro-choice. From the mid-1970s through the mid-1980s, the abortion rate kept climbing—as did the percentage of Americans who endorsed abortion-on-demand. Since the early 1990s, both trends had gone into reverse. In my book, I would be able to offer what my predecessors could not: an evidentiary basis for hope.

The passage of time had not dispelled widespread confusion about basic facts in the abortion controversy. No Supreme Court decision of the last four decades has been discussed more than *Roe v. Wade*. Yet most Americans, including most highly educated Americans, do not know what it held. Many of them think that it made late-term abortions illegal. Journalists routinely provide distorted pictures of public opinion on life issues, and describe pro-lifers' views in ways that would be unrecognizable to most of them.

In my book, I sought to explain why pro-lifers believe (and are right to believe) that abortion, euthanasia, embryo-destructive research, and infanticide

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are unjust, and should be illegal. I also tried to explain how abortion on demand, and the ideology behind it, had corrupted every institution it touched: from the courts to the academy to medicine to the media to the Democratic party. Finally, I offered an explanation of why pro-lifers had started to win many of the political battles over abortion.

II.

Months before my book came out, it was already controversial. Many liberal, and some libertarian, bloggers pounded away at its title. One blogger, Andrew Sullivan, made a regular feature of denunciations of the book. The controversy over the title dominated the discussion of the book; and so, tedious as I find the topic, it is probably worth going into for a few moments.

“The party of death” is, obviously, an intentionally provocative phrase, and I cannot reasonably object to the fact that some people were provoked. I can object to misreadings of it. The dimmer sort of blogger seemed to take my title to stand in for an argument that Democrats just like killing people for its own sake. This was a double mistake. In the very first pages of the introduction, I point out that the party of death has included Republicans as well as Democrats, with the proportion of each shifting over time. (It must be conceded that the text of the book jacket and of the Amazon.com description of my book—neither of which I wrote or approved—misled my critics on this point.) I also pointed out, in the introduction, that what earns the members of the party of death their label is not their subjective malice, which in most cases does not exist, but the fact that what they advocate involves, well, death.

Ronald Dworkin, the legal philosopher, called euthanasia and abortion “choices for death” in a book he wrote defending the right to make those choices. I adapted his phrase to refer to the political forces that stand behind this argument. There are, in general, two types of supporters of abortion, euthanasia, and the like. Those whom we might call the “soft pro-choicers” deny that these things involve the deliberate killing of human beings. They delude themselves that the early human embryo is not a living human organism, or that withholding food and water is merely “letting a patient die.” The hard pro-choicers have no such illusions: They believe that it is in certain circumstances morally defensible, or at least that in certain circumstances it should be legal, deliberately to cause the death of innocent human beings.

It is this latter group that I call the core members of the party of death. (Those in the former group are mostly its unwitting allies.) In the book, I mention few of its members by name: Dworkin and Peter Singer are the

most notable. The phrase functions as a heuristic device: Talking about it is a way of uncovering the philosophical foundations of abortion and related attacks on the sanctity of human life, and of pointing out what we will end up with if we build on those foundations.

The critics of my book, for the most part, have not exactly been even-handed in their treatment of book titles. Plenty of other high-profile books have titles and subtitles that do not require the flat-footed exegesis to which mine was subjected to seem hyperbolic. Does Damon Linker really think that “secular America” is “under siege,” as the subtitle of his book *The Theocons* has it? Is Christopher Mooney really willing to stand by the claim that Republican policies on science amount to a “war” on it? Christopher Hitchens’s book *God Is Not Great* is subtitled *Why Religion Poisons Everything*. I haven’t seen Andrew Sullivan object to that.

Sullivan has himself pioneered the use of the term “Christianist” to refer to social conservatives. The association of that word with violence is not accidental: Sullivan invented it while discussing a murderer of abortionists. Moreover, it is no mere device. Sullivan routinely uses the word to cover the gaps in his argument: to portray those of us who prefer the American abortion law of 1965 to that of today as though we were some sinister and un-American force bent on establishing a state church.

A smaller group of critics of my title were pro-lifers, or pro-life sympathizers, who worried that it would alienate potential readers and thus limit its ability to persuade. I thought this concern was mistaken, and I still do. The universe of people who are sufficiently open to pro-life arguments to read a pro-life book, but would run screaming from the room at a polemical title, must in the nature of things be pretty small. Jon Stewart grilled me about the title when I went on the *Daily Show* to promote the book. But it is not as though the conversation would have gone better if my book had been called *A Pro-Life Treatise on Abortion and Related Evils*. The conversation would not have occurred at all: Stewart would not have booked me.

III.

It was a relief, once the book came out, to turn from internet denunciations of me as some kind of hate criminal to reviews by people who had actually read it. I was surprised, however, to see several thoughtful and fair-minded reviewers making what seemed to me to be elementary errors about the book.

Peter Berkowitz (in the *Wall Street Journal*) and Jonathan Rauch (in the *New York Times Book Review*) were generous in their praise for the book.

But Berkowitz twice writes that the book argues that abortion is “murder”; it never even calls it that. He claims that I write that Americans would turn against abortion if they realized that *Roe* legalized late-term abortions. What I actually argue is that they would turn against *Roe* itself if they realized how sweeping it is.

Rauch, meanwhile, faults me for failing to address various questions—most of which I actually did address. He writes:

If human life is “inviolable,” then why should it matter whether a hopelessly vegetative patient—someone like Terri Schiavo—left instructions not to be fed? Surely, from Ponnuru’s perspective, the doctors caring for her cannot ethically conspire to starve her to death even if she would prefer to die.

That’s right—which is why I say so in my chapter on the Terri Schiavo case. It is not “acceptable to kill those who wish to be killed.” (It’s right there on p. 126, and I say it again on the next page.)

Both Berkowitz and Rauch claim that I argue against any compromise in the abortion debate. Rauch’s title is “No Middle Ground,” his subheadline says the book “makes a case against centrism,” and the review itself says that it “seeks to debunk what [Ponnuru] views as an incoherent centrism.” None of this is true. (It is also, incidentally, incompatible with Rauch’s claim that I have “little to say” to centrists. Either I have little to say to them, or I am trying to make a case against them.)

My book argues that the center of American politics on abortion is not where most elite journalists think it is. The book argues for gradual moves toward the end of the abortion license. That is a centrist position, and one that dictates certain compromises while excluding others.

Rauch also raises the familiar idea that pro-lifers, to be consistent, should favor jailing women who seek abortions. He faults me for not facing up to this alleged implication of my views. He faults me, that is, for not being centrist enough, and also for not being extreme enough. It is true that I do not go into detail about what precise mix of penalties the law ought ideally to include.

I had two principal reasons for not going into such detail. Neither of those reasons involved any “flinch[ing]” on my part from the implications of my views, as Rauch has it, or any attempt to persuade the ambivalent by soft-pedaling those implications. My first reason is that voters and legislators are not yet in any position to enact ideal legal codes, and the case for letting them make law on abortion has to be made before any further steps can be taken. (My case, of course, includes a case for the general reasonableness of the pro-life position.) The second reason is that pro-life principles cannot by themselves determine every detail of an abortion law. Different jurisdictions

might find that deterring abortion requires them to adopt different sets of penalties from each other.

I do not believe that abortion is typically committed out of malice, and therefore do not believe that non-malicious killings need to be, or should be, punished as severely as we punish malicious killings. The child in the womb has a right not to be killed, but it does not follow from that right that someone who violates it must be punished with great severity. In fact, the punishment need not be harsher than what is reasonably required to deter abortion generally. And that might not be very harsh at all. The women seeking abortions may not have to be punished at all.

Now, there is a lot more to be said about this, and in retrospect, I think I should have addressed the issue more fully in the book. Many people of good will misguidedly believe that pro-life premises lead logically to draconian punishments for abortionists and their clients. For the reasons stated, and others, I think they are mistaken about that, and I wish I had said more about it. I will address it in other writings soon.

IV.

Other reviews made distinctive points of their own. Wesley Smith is, of course, a distinguished writer on bioethical questions, and I draw on his work extensively (with credit!). Reviewing *The Party of Death* in *The Weekly Standard*, however, he disagrees with my analysis of abortion:

But Ponnuru doesn't confront as forcefully the primary reason abortion is legal up to and including the moment just prior to birth. This involves competing liberty interests: the right to life of the unborn human being versus the right to personal autonomy of the already-born woman.

Abortion is legal not because a fetus isn't really a human being, or even because it isn't deemed a "person," a philosophical and bioethical notion that attributes moral value to possessing minimal cognitive capacities. Rather, the real nexus of the debate is whether or under what circumstances society should be able to force a pregnant woman to do with her body that which she does not wish to do, namely gestate and give birth. Ponnuru does not sufficiently explain why (in his view) a woman's autonomy right should come second to the right to life of a fetus, particularly early in pregnancy.

But Smith is just wrong on this point. Abortion is legal because seven justices of the Supreme Court made it so in 1973. They said that they ruled that way because the Constitution does not recognize the fetus as a person and therefore (somehow) the due process clause of the Constitution confers upon a pregnant woman the right to have an abortion. The Court's ruling and reasoning were absurd, but they are why our abortion law is what it is.

Now there have indeed been people who have argued along the lines Smith suggests. The philosopher Judith Jarvis Thomson has famously argued that even if human fetuses are persons with rights (as she is willing to concede they are from a fairly early point in development), those rights do not entail an obligation on the part of pregnant women to continue nourishing them. But as I note in the book, this defense is false to the nature of abortion. Perhaps it would work if abortion were a mere eviction from the womb. But the death of the fetus is in nearly every real case the goal of an abortion, and it is always the means to whatever its goal is.

My *National Review* colleague John Derbyshire used my book to write a long and inexplicably vitriolic attack on the pro-life movement and on me for the *New English Review*. (I had never heard of it either.) His passage on the Schiavo case tells you all you need to know about his outlook and methods. He excoriates me for defending Michael Schiavo against certain criticisms but not all of them. He concludes: “Michael Schiavo is a good man criminally traduced by brutal, unprincipled RTL fanatics, from whose number, on the evidence of this chapter, Ponnuru cannot with certainty be excluded.” That man is a fanatic; he disagrees with me.

I argue in the book for the pro-life position without appealing to revelation or religious authority of any type. Derbyshire considers my approach “disingenuous,” since “*Party of Death* is obviously inspired by religious belief.” If all I am doing is reasoning, he asks, why should my conclusions line up so conveniently with the Catholicism I profess? This criticism is fallacious as well as presumptuous. For the record: When I was an agnostic I opposed abortion for the same reasons I give in the book. I became a Catholic because I came to believe that Catholicism is true. If I didn’t think Catholic teachings were true, I wouldn’t be a Catholic. So the fact that my reasoning leads to conclusions in line with Church teaching—conclusions that the Church defends using the same reasoning—is no scandal. It is problematic only if one is committed to the view that religion is by its nature pervasively irrational: the very view, when applied to the sanctity of life, that I spend a great deal of time in the book refuting.

Neil Sinhababu, writing on *The American Prospect*’s website, engaged the book more seriously than any other pro-abortion reviewer. (As we will see, this isn’t saying much.) He deserves credit for indulging in no ad hominem attacks or speculation about my motives.

Sinhababu takes the view that not all human organisms are persons with rights, that there are human non-persons—a view I consider both wrong and dangerous. He believes that I am placing too much importance on the humanity of the human fetus. If the right to life attaches to any organism that

happens to belong to the human species, he asks, then what would happen if we met intelligent extraterrestrial life? “To ground moral status in biological humanity is to shrug at the enslavement of hobbits, the slaughter of kittens, and the destruction of all life beyond earth.”

Nice line—but no. From the premise that all human beings have a right to life it does not follow that all non-human beings lack it. Humanity is a sufficient condition for having the right to life, but not a necessary one. I even mention, in a footnote, that an alien could have the right to life. The key question would be whether those aliens have a rational nature, as humans do. Indeed, my premises would allow for more protection of those aliens than Sinhababu’s theory would. He believes that human beings and other types of beings have value to the extent that they have the immediately exercisable capacity to perform mental functions. That would leave immature or handicapped aliens, hobbits, and humans without protection.

(As for kittens: I do think that the killing of animals can be defended under conditions that would not justify the killing of human beings. Euthanasia for pets, for example, does not raise the same concerns as it does among humans. But it does not follow from my case for the right to life that any form of cruelty to animals is morally justified, let alone that all forms are; nor does it follow that the law should allow any or all such cruelty to be committed.)

V.

I have saved for last the dominant objection my reviewers have made to the proposition that all human beings—regardless of location, size, condition of dependency, age, or stage of development—have a right not to be deliberately killed. It is an objection that appears in the reviews by Berkowitz, Derbyshire, Rauch, and Sinhababu. It is not an argument; it is an objection to the application of reasoned argument to the controversy in question.

Berkowitz thinks that I have scanted “the wisdom embodied in custom and common sense” and disregarded “a complex intuition that seems to underlie the American ambivalence” about abortion. (Said intuition being that “the early embryo, though surely part of the human family, is distant and different enough from a flesh-and-blood newborn that when the early embryo’s life comes into conflict with other precious human goods or claims, the embryo’s life may need to give way.”)

Derbyshire believes that we should be guided by “feelings,” not by religion or reason. By relying on reason, I show myself to be “pitiless,” “frigid,” “inhuman,” and, worst of all, an “intellectual.” You would almost think that the demand for logical consistency was some kind of sinister Jacobinical

invention. Sinhababu is not above a vox-populi moment, claiming that “liberals and other ordinary people” think the way he does about the moral status of early-stage embryos.

Actually, most ordinary people and even most liberals do not agree with Sinhababu that birth should be the dividing line: Only about 10 percent of the population shares his view that eighth-month abortion should be legal.

Custom and common sense cannot resolve these issues. The custom of our country is to kill 1.3 million unborn children a year. That it is our custom cannot place it beyond moral scrutiny. We used to have different customs, and reason can help us to see why those customs were better.

The roughly even division of the country on abortion also suggests that there is at present no common sense of the matter. (We have no sense of it in common.) It may be that a large majority of Americans agrees with Rauch’s assertion that the moral status of a human fetus falls somewhere between that of an appendix and that of a ten-year-old, and that it is not analogous to anything else. But the question here is a binary one. Is it permissible to destroy the fetus, as it would be to destroy the appendix, or is it not, as it is impermissible to destroy the ten-year-old? Even if 80 percent of the population agreed that the fetus was “somewhere in between” these two cases, they manifestly do not agree on what that in-between status entails: which is the only purpose for which one would even bother to think about the question of its status in the first place.

As for our feelings, they are imperfect moral guides at best. They can and do change, in part in response to changes in the prevailing moral understanding. Our feelings about the morality of interracial marriage are a case in point. In the book I go through reasons for rejecting the common “arguments from intuition” in favor of abortion. For example, we sometimes hear it said that the high natural death rate of embryos can somehow justify abortion (or embryo-destructive stem-cell research). I point out in response—and I claim no originality for this point—that high rates of infant mortality have obtained in some times and places, and that this fact could not justify infanticide. And that we do not treat the high death rates for ninety-year-olds as a reason to turn nursing homes into free-fire zones.

I now think that this response was incomplete, because it gave too much credit to these ideas. For the most part, I now believe, the arguments from intuition are not arguments, and not based on intuition. Nobody actually “intuits” either that there is a high natural death rate for human embryos, or that this fact can justify abortion. People learn about the high natural death rate by reading about the science, and then some of them make an invalid

inference that we are therefore justified in deliberately seeking to bring about what nature often does.

I have come to believe that if we had no motives for embracing false ideas about human beings in the earliest stages of development—if we were thinking about the moral questions here as a purely abstract matter—nobody would be at all confused about whether embryos are living human organisms or whether it is morally acceptable to kill them.

Invoking intuitions, feelings, etc., allows for a highly convenient double standard for defenders of abortion, embryo-destructive research, and euthanasia. Rauch, recall, demands that pro-lifers' ideas pass rigorous tests of internal coherence. I have to show that the logical premises behind laws protecting the unborn are compatible with exceptions for the life of the mother, with refusals to throw mothers in jail, and so forth. I can't just say, well, putting the women in jail doesn't feel right. He, on the other hand, doesn't have to do anything but offer an unsupported assertion about the in-between moral status of the unborn, and call it centrism.

A libertarian blogger, Julian Sanchez, has tried to dress up this way of thinking about abortion:

It is, on its face, pretty outlandish to claim that some cluster of ten or twenty cells with no recognizable brain—no hopes or memories, no plans, no sense of self, not even (in the early stages) a capacity for pain—is a person, just like you and me, and that destroying that insensate cluster of cells is morally on a par with killing one of us. It is, in fact, so outlandish that if you have an argument that seems to establish that this is the case, that's a pretty good *prima facie* reason for thinking something has to be wrong with your argument. . . . What's valuable about the Derbyshire approach, at least as a starting point, is that it backs off from the familiar arguments involving theoretically freighted terms . . . and gets back to the sound gut reaction that it's just sort of crazy to treat a mindless ball of cells as morally no different than your Aunt Hortense. Ideally, though, you do eventually go further and say what the problem with the argument is.

What Sanchez is saying is that people's intuitions, feelings, or common sense may not prove the wrongness of the pro-life position, but establish a presumption against it: that they place a high burden of proof on its advocates.

If I am right in thinking that these intuitions and common-sense views do not actually exist, however, then of course they cannot even do the limited work that Sanchez believes they do. Moreover, his description of the conclusions that pro-lifers are attempting to prove is imprecise in ways that stack the deck against us. We're not treating a "mindless ball of cells"—a reductive way of putting it, of course—"as morally no different than your Aunt Hortense." (You don't owe the ball of cells a Christmas present.) These two things are morally equivalent only in the sense that they are human

beings (albeit at different developmental stages) and that they therefore possess inherent dignity and a right to life. (Indeed, these two things may actually be the same thing—the very young Hortense *just is* Aunt Hortense at the beginning of her life.)

VI.

Developments since the publication of *The Party of Death* have amply confirmed the political account given in it. Democrats did extremely well in the 2006 election, but not by highlighting their support for abortion. They achieved their most crushing Senate victory—the defeat of incumbent Rick Santorum in Pennsylvania—by running a pro-lifer. Pro-choice candidates, meanwhile, were more likely to highlight their support for raising the minimum wage than their stance on abortion. Some observers saw the Schiavo affair as a portent for a speedy move toward euthanasia in this country; that cause has barely advanced at all. While politicians remain convinced, with some good reason, that embryo-destructive research is a winning issue, some of the wind seems to be coming out of the sails there too.

Nobody has even tried to refute *The Party of Death*'s claims about the linkage among the issues of abortion, euthanasia, and embryo-destructive research; or about the realignment of the parties wrought primarily by abortion; or about the pro-life direction of public opinion; or about the bias of the press in dealing with life issues; or about how abortion advocacy has corrupted the academy.

The response, detailed above, to the book's central moral claims is also instructive. In 1970 and for many years thereafter, advocates of legal abortion portrayed themselves as the party of cool, dispassionate reason. Their opponents were the prisoners of superstition and emotion. Pro-abortionists back then tried—not, I think, well—to argue either that fetuses were not “alive” or “human” or that their killing could be justified philosophically. Today, they tend with few exceptions either to refuse to engage the argument at all or to retreat behind their feelings and other non-rational defenses.

There are, of course, very smart people on the other side of the debate. But I think *The Party of Death* and the reaction to it demonstrate something else that has changed in the last four decades: The intellectual high ground is now ours.