

Published on *National Catholic Reporter* (<https://www.ncronline.org>)

June 1, 2009 at 9:00am

Finding Common Ground on Life Issues

by Douglas W. Kmiec



Kmiec

Last week, I was in conversation with Professor Robert George and former Ambassador Mary Ann Glendon at the National Press club on the topic of the Obama administration and the sanctity of human life. Our general assignment was to explore whether we could build common ground between pro-life and pro-choice perspectives.

Those present or watching on C-SPAN should be reasonably encouraged. For the most part, Professor George, Ambassador Glendon and myself focused on the future, rather than the acrimony of the past. Of course, there are always some cultural warriors who insist on keeping up the fight, rather than helping. Worse, some insist on doing so seemingly without listening.

[Read News Report of the National Press Club gathering](#)

For example, at one point during the discussion, I suggested that there was a correlation between the economy and the abortion rate. In making this observation at the Press Club, I focused on comparing the Bush I and Clinton time periods, stating my recollection that the better economic times of the latter led to

a greater reduction in the abortion rate. By the time I arrived back in Los Angeles, various Internet sources asserted that I had "lied" in claiming the abortion rate had not gone down under George W. Bush.

Say what? Not having said anything about the abortion rate under George W. Bush, this was perplexing, especially since, for most of the recent Bush administration, the perception "false, though it was -- of economic prosperity would have been expected to lower the abortion rate, and it did.

According to researcher Michael New, Center for Disease Control data show that between 2000 and 2005 the number of abortions declined 2.9 percent. Earlier extrapolations from CDC statistics find that improving the economic well being of the average family in general, and of the women facing the abortion decision in particular, does save unborn lives. From 1979-90, for example, during a difficult inflationary economy (and including the presidencies of Carter, Reagan and Bush I and not just Bush I as I had recalled), the annual rate of abortion increased by 14.2 percent resulting in an additional 740,000 abortions. In the more economically stable or prosperous decade of the 90s that followed (overlapping two years of Bush I and eight years of Clinton), the annual rate decreased by 34 percent meaning that approximately 2.3 million children who would have been aborted are alive today.

No surprise, an April 6, 2009 report similarly indicates that "abortion clinics across the U.S. are reporting increased traffic in the past several months. . . .Planned Parenthood clinics in some states report record-high numbers of abortions in the last half of 2008, following years of a national decline in the numbers." (Muth, CNS)

Miss Jill Stanek, a well-meaning nurse who challenged Barack Obama in the Illinois Senate over his refusal to support the Illinois Born Alive Protection Act some years ago, approached me to suggest that the published Chicago Tribune account that I had relied upon to discuss that topic in my book on how Catholics can support Obama was unreliable because she knew the reporter was not pro-life.

With all due respect to Stanek, re-litigating this question is unhelpful. While scholarly research suggests that the common law terminology of "born alive" did not generally include fetus" subject to abortion, but instead reveals that the states at common law, and even today, give quite a range of answers on this and related matters, like the prosecution for child abuse or homicide for pre-natal injury case, all this is again looking unhelpfully backward. While, as I indicate in the book, unlike then- Senator Obama, I would have resolved any doubt in favor of unborn life like I am certain Stanek and would have voted for the legislation, I don't see how keeping the outrageous claim alive today that President Obama's contrary view somehow supports "infanticide" leads toward common ground.

What would? A good beginning would be to heed President Obama's call to reduce the need for abortion, through education, contraception, improved adoption services, and support for a woman to carry her pregnancy to term. Specifically, let me suggest that the common ground that emerged from the discussion last week includes:

- Helping President Obama convince the Congress to fund the economic help for pregnant women and educational and adoption efforts noted above and to the extent that President Obama already has such funding under the stimulus legislation for such purposes, to get on with the business of spending it;
- Working with the leaders of our respective religious communities to ensure as many faith-based pregnancy support centers exist to transform the culture in favor of life, one woman in need of our love and attention and support at a time; why, for example, given the importance of this issue to the Catholic Church, isn't there a center in every parish now?;

- Drafting sensible conscience clause regulation that clarifies the well-established conscience clause protection that already exists in the US code and that President Obama clearly affirms; what clarification is needed? Protecting doctors and nurses with religious or moral objection from having to participate in abortion, while also responsibly providing that advance notice of ethical objection be made, and that non-objecting personnel without ethical concern make timely referrals;
- Drafting federal legislation building on the encouraging 'pro-life' polling data to prohibit all late term abortions; this was largely Professor George's focus, and it is a worthy objective;
- More meaningfully build a coalition in favor of reversing Roe, arguing for the additional novel holding from the Supreme Court that the dormant commerce clause preclude States thereafter from legislating for or against abortion (thereby keeping all legal thumbs 'federal or state -- off the scale and placing the burden of the case for life where it belongs ' on us, as parents, spouses, neighbors, fellow churchgoers)
- Honestly recognizing that science does not give an answer to the legal personhood question of the un-implanted embryo created in a laboratory for non-reproductive research purpose. President Obama has decided to forego this therapeutic embryonic stem cell research for now, I suspect out of respect for our faith claims, but the pursuit of common ground asks us to be cautious about overstating the science. While I fully accept the Catholic teaching, and the desire by our bishops for others as well to come to share the belief that we should treat even an embryo created in a petri dish never intended for implantation as a person, we need to acknowledge that reason here may not ' yet -- be on the same path as faith.

There is much to do together. Let's stop doing nothing other than inventing ways to keep us apart.

Douglas Kmiec is chair and professor of law at Pepperdine University.

Advertisement

Source URL (retrieved on 06/22/2018 - 7:45pm): <https://www.ncronline.org/news/politics/finding-common-ground-life-issues>

Links:

[1] <https://www.ncronline.org/node/160616>