

# Commonweal

A Review of Religion, Politics & Culture

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## THE SUPREME COURT & SAME-SEX MARRIAGE

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## LETTERS

### *The Abortion Stalemate*

#### BIOFEEDBACK

I congratulate Peter Steinfels on his insightful delineation of the broader issues surrounding abortion ("Beyond the Stalemate," June 14). I offer a consideration of two biological facts that may help reduce some of the discomfort Steinfels describes; they are relevant to the hard cases (to save the life of the mother and following rape).

First is the fact that there are three actors on this stage: the mother, the embryo, and the placenta. The placenta, while a "product of conception," is not the fetus and is not a part of the fetus. The placenta is largely autonomous; its role is to latch onto the mother's blood stream to ensure adequate nutrition for the embryo. In addition, it secretes substances into the mother to alter her metabolism, redirecting it to meet the needs of the organism growing within her. Those substances are responsible for many of the changes (physical and emotional) related to pregnancy.

Sometimes, however, that process goes wrong and the chemicals produced by the placenta create disease in the mother that threatens both her life and that of the child she is carrying (as in the infamous Phoenix case). It is important to understand in those instances that it is not the fetus that is threatening the mother—nor is it the fact of the pregnancy, *per se*. It is the placenta. What must be removed under such circumstances is the placenta, not the baby. Unfortunately, with available technology, removing the placenta results in the loss of the baby, but the loss of the baby is not the intended consequence, nor is removing it the means for saving the mother's life. Catholic moral theory is perfectly capable of dealing with such unintended, indirect effects.

The second fact bears on the question of when human life may be said to begin. Steinfels notes a preference for eight weeks after fertilization, based on resemblance. He is careful to describe the union of the paternal and maternal chromosomes as "fertilization," not

"conception." Fertilization is an observable biological event, while conception is a construct, often used to connote individuation. (Thus the phraseology often includes such words as "an individual human from the moment of conception.") Steinfels rightly stresses both the ambiguity of that "moment" and the fact that it is inherent in the situation itself.

Some of that ambiguity may now be dissipating as a result of the finding that many normal singleton pregnancies start out with fertilization of two egg cells by two spermatozoa, an event that had previously been thought to lead to fraternal twinning. New evidence has shown that after fertilization those two genetically distinct cell masses sometimes fuse into one, which then goes on to develop as a normal fetus. The resulting "blended" embryo is a literal chimera, a fact detectable only by modern DNA technology. The prevalence of such chimerism is unknown, but there is reason to believe that it could involve a significant fraction of all singleton births. Fusion can occur up to about twelve to fourteen days after fertilization. To call the embryos prior to fusion "individual humans" and then "a single individual human" after fusion presents formidable philosophical difficulties. Chimerism makes it biologically difficult to push the time of individuation back to fertilization. This is not to argue that termination of the life of an embryo prior to individuation is a morally neutral act. But it is to say that its moral character differs from that of termination following individuation.

ROBERT HEANEY, M.D.  
Omaha, Neb.

#### LIFE AFTER DEATH

Peter Steinfels hopes that a reappraisal of the Catholic Church's entire engagement with the abortion question will help to move the United States "Beyond the Stalemate." I share his hope and commend him for taking the lead. Alas, most politicians would rather pander to whatever constituency best serves their own interests.

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Late in his article, Steinfels suggests, on biological grounds, that a consensus might be reached that would permit abortion through the eighth week of pregnancy. But that seems liable to an objection he himself lodges against concentrating “on scientific findings about embryonic life as though these rendered unnecessary the examination and defense of moral premises.”

Allow me to suggest something a bit different. The moral premise most deeply in play is the premise that innocent life may never be taken licitly. But does Catholic moral thought not make provision for the taking of innocent life in certain instances, such as self-defense or just war? Could early abortion be framed as such an instance? That would shift the debate away from the status of the fetus and toward the morality of taking its life. On this line of reasoning, one may grant the unborn full human rights and still be faced with a question about abortion.

One of the strengths of Catholic moral thought is its awareness that many actions, seemingly remote from actual killing, can have murderous effect. So, traditionally, any interruption of the biological processes that lead to conception—that is, not just the interruption of gestation—has been considered morally wrong. That’s why sterilization has been condemned, and why even masturbation has been equated with murder, as it was at my own Catholic high school. That may seem laughable today, but there is a clear moral consistency about it. But then is it not the case that consistent Catholic moral thought permits sterilization under certain cases and that the natural loss of sperm or egg as in nocturnal emission or menstruation is regarded as morally innocent because nature is the work of God, and God has the right, which humans lack, to interrupt the processes that lead naturally to conception? Masturbation is moral so long as God does it for you.

It is easy to mock this kind of moral thought, as I have just done, perhaps most because of its stunning consistency. A Jewish high-school friend, listening to my high-school explanation of how my church regarded human conception, asked me: “But then how can you even

eat an egg for breakfast?” He was for inconsistency. He wanted to flout the natural law by which rooster and hen produce chick rather than breakfast. He knew that, in this regard, I was as inconsistent as he was. He made his point, to which I will return, with telling concision. Yet the church had a point, too, for life, rather obviously, does not begin at conception. It begins before conception. Sperm are alive. Eggs are alive. The gonads where they originate are alive. There is wisdom in recognizing that life is a vast and complicated ongoing process.

By the same token, there may be a necessary wisdom in recognizing that life kills and must kill. The life of the human species goes forward only by the endless killing of the plants and animals that we feed on: the egg is only one example among millions. We are constantly interrupting and otherwise intruding upon natural life processes. Peter Steinfels now accepts as moral the interruption in the life process constituted by artificial contraception. So does the overwhelming majority of U.S. Catholics, though the Catholic Church, as its opposition to the Affordable Care Act made clear, still regards artificial contraception as tantamount to murder (and still, so far as I know, officially regards masturbation, too, as a form of murder). What I wish to suggest is that engaging abortion as another interruption of the continuum that reaches far back before conception and—in that way but only in that way—as another form of licensed killing may open a path to the consensus that Steinfels seeks. Situating selective abortion in a broadened understanding of the life of the human species as an ineluctably and naturally life-taking continuum may bring it within the reach of the Catholic moral

imagination. As this is done, a second continuum could come into play—namely, the continuum between birth and life-long nurturance, with this understood as, again, a collective natural process. Those who legally require a woman without resources to bear a child incur an obligation to provide her the resources she requires to raise it. Communitarian solidarity is squarely within the Catholic moral tradition, even if the tradition is honored mostly in the breach. A Catholic legal initiative would consistently link federal restrictions on abortion with federal taxation for child support.

I can imagine someone objecting: “How grotesque: You equate aborting a baby with harvesting a chicken egg!” I don’t, but I do mean to push away from thinking of the pregnant woman as a lone murderess or the abortionist as a lone murderer, and toward thinking of abortion as something comparable to war that we do after moral reflection as a nation and—here is the crux—of what we may legitimately do as a species because the moral obligation, coinciding with the natural instinct, to “increase and multiply” is not individual but collective and is not negated or undermined when abortion is countenanced. I oppose most wars as immoral, but I decline to oppose all war *a priori*. If I can oppose abortion in a similar way, then my conscience can be clear even when, collectively speaking, there is blood on my hands. Not all bloody hands are guilty hands.

Law, of course, is always a simplification. The eighth week? The third trimester? Steinfels is quite right: a strong and steady consensus exists in favor of some regulation and against the brutal free-for-all that total, unregulated license could unleash. It is prudential regulation that saves us from the madness of analogical argument of the sort that goes, “If you forbid abortion, then you are forbidding fried eggs” or “If you countenance one abortion, then you are countenancing genocide.” No: The slope is only as slippery as we choose to make it. We have the right to stop halfway up or halfway down. Consensus regulation won’t happen soon, but it will

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# The Truth About Marriage

There have been few changes in our moral, sexual, and legal culture more precipitous or, in some ways, more dramatic than the normalization of homosexuality and the growing acceptance of same-sex marriage. Within the lifetime of many Americans, homosexuality has gone from being a universally condemned vice, often only whispered about, to being an accepted and often celebrated sexual preference or identity. These attitudinal changes are especially pronounced between the generations, with younger Americans broadly supportive of the political demands of their gay and lesbian friends while their parents and grandparents continue to find these developments disorienting if not threatening to once-unquestioned values underpinning the family and traditional gender roles.

*Commonweal* has expressed skepticism and urged caution regarding the legalization of same-sex marriage, while at the same time defending the rights and dignity of homosexual persons both in society and in the church. In the aftermath of the chaos and destruction, both personal and social, wrought by the so-called sexual revolution, the rush to change the fundamental heterosexual basis of marriage seemed imprudent. With the institution of marriage already in crisis, such an unprecedented social experiment appeared to pose risks—especially to the already precarious place of children within modern marriage—that were all but impossible to measure. With divorce and out-of-wedlock birthrates soaring, tampering with the inherited understanding of marriage seemed like only one more instance of “enlightened” hubris. Advocates cast same-sex marriage as the extension of basic rights to a once excluded group, but it is likely also a reflection of—and a further step toward—an essentially privatized and libertarian moral culture.

None of these worries has been assuaged in any definitive way. There is simply not yet enough social-scientific data to say one way or the other how children raised in same-sex marriages fare, although there is plenty of anecdotal evidence suggesting that same-sex couples are as devoted to their children as their heterosexual neighbors. Will severing the connection marriage has historically forged between sex, procreation, and family formation further undermine the expectations and value our culture places on the institution? No one knows the answer to that question either, but it seems we are about to find out. Clearly, the societal

consensus about what it means to treat heterosexuals and homosexuals equally has changed, and it comes as little surprise that the Supreme Court has followed that new consensus by removing recently erected impediments to same-sex marriage.

In *United States v. Windsor*, the Court ruled that in defining marriage as between one man and one woman the Defense of Marriage Act violated the “equal liberty” rights of same-sex couples. In *Hollingsworth v. Perry*, the Court let stand a lower court’s decision to strike down California’s Proposition 8, which prohibited same-sex marriage. For the time being, other state laws restricting marriage to heterosexual couples will stay on the books, but the DOMA ruling makes it unlikely those laws will survive legal challenges, which are already being brought in several states.

Ideally, divisive moral and social questions on which the Constitution is ostensibly silent are best left to democratic deliberation in the states, where those on the losing end of the argument would at least have the consolation of knowing that their views got a hearing from their fellow citizens. Those pressing for “marriage equality,” however, are not likely to leave the question up to majority vote. Most of the cultural and legal momentum now clearly favors same-sex marriage, and in truth it is hard not to be moved by the evident joy of same-sex couples over the Court’s decisions. At the same time, Americans who oppose these developments, most of whom do so for religious reasons, have cause for concern.

In the DOMA decision, Justice Anthony Kennedy characterized Congress’s effort to limit marriage to heterosexual couples as a “desire to harm,” dismissing the reasonable if speculative concerns of many Americans as mere bigotry (see Richard W. Garnett, page 10, and Michael Perry, page 12). Kennedy’s indictment is shortsighted, and exposes those with serious reservations about the emerging consensus to possible legal action for violating antidiscrimination laws. As *Commonweal* has editorialized in the past (“Protecting Religious Freedom,” August 12, 2011), champions of equal rights should support the broadest possible protections for dissenting religious communities and their associated agencies. It is one thing for the courts to rule that there is no constitutional justification for denying *civil* marriage to same-sex couples; it is quite another thing for the courts to force religious institutions to recognize such marriages in their employment and benefits agreements. Under >>

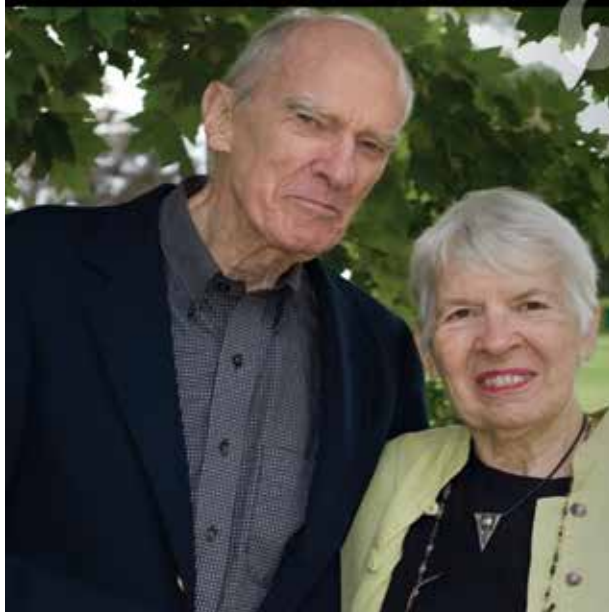
our constitutional system, the state must give the widest possible berth to religious practice, and it is imperative that dissenting religious communities not be driven from the public square over this issue. As many of the most eloquent proponents of same-sex marriage acknowledge, Americans will need time to adjust to this change. Traditional religious communities continue to do indispensable work in caring for the needy, educating the young, and calling the larger society to account on important questions like war, torture, abortion, euthanasia, and economic justice. American democracy cannot afford to deprive itself of those moral and social resources, yet that is what could happen if the law comes to equate institutional resistance to the recognition of same-sex marriage with racial discrimination.

In this regard, it is no secret that the United States Conference of Catholic Bishops has been among the most outspoken opponents of same-sex marriage. The conference's advocacy, which has often cast the debate in hyperbolic terms, has persuaded few and offended many. With typical alarm, the bishops' Subcommittee for the Promotion and Defense of Marriage issued a statement calling the Court's decisions "a tragic day for marriage and our nation," and a "profound injustice to the American people." The statement went on to use variations on the phrase "the truth of marriage" seven

times in two brief paragraphs, as though mere incantation were a substitute for persuasion. A more dexterous rhetorical strategy is needed if the church's witness to the "truth" about marriage is not to be written off as blind prejudice. The bishops might begin by emphasizing that the church strongly defends the dignity of same-sex oriented people, a fact most Americans remain ignorant of. The bishops might also acknowledge the good of faithful, life-long same-sex unions, as well as the progress made in the public recognition of the manifold achievements and contributions of gays and lesbians. It is also time for the church to open its eyes to the selfless work same-sex couples do in raising children, many of whom would otherwise go uncared for and unloved.

Surely, whatever its legitimate reservations about the legalization of same-sex marriage, it is time for the church to begin to come to terms with this challenging new cultural and pastoral reality, a reality that calls for far more than overwrought predictions of moral decline and social calamity. Same-sex marriage may prove to be a mistake or a failed and eventually abandoned experiment, but it is not an existential threat to the church or to Western Civilization. It is now time to listen and learn from those the church has long silenced or ignored. Who knows, those being listened to might even return the compliment. ■

## SKILLIN SOCIETY PROFILE



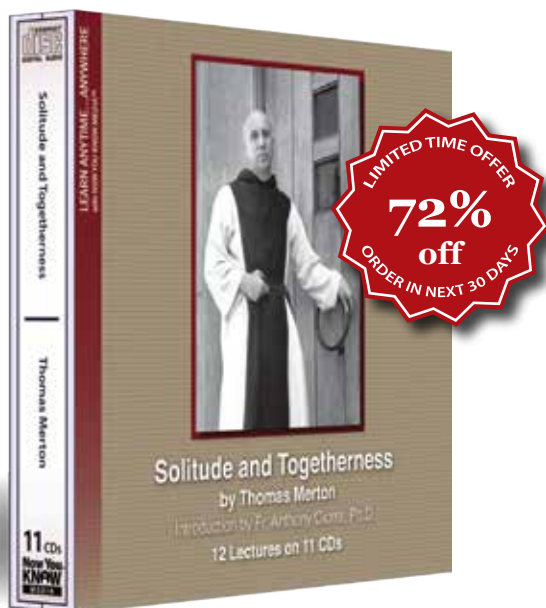
When we became engaged 57 years ago, we drove to have dinner with my brother Ned, a Jesuit priest. It was the first time he'd met Mary Alice, and she spent the whole meal arguing good-naturedly with him that *Commonweal* was superior to a certain Jesuit magazine. It was dessert time before I got to ask him if he would celebrate our wedding Mass.

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— Vincent and Mary Alice Stanton, Watertown, MA  
*Commonweal* Readers

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Frank J. Matera

# An Act of Theology

## THE FUTURE OF CATHOLIC BIBLICAL SCHOLARSHIP

Last August the Catholic Biblical Association of America celebrated its seventy-fifth anniversary. The makeup of the CBA's membership today is far different from that of the group founded in 1937, and now includes laypeople as well as clerics, women as well as men, and even Protestants and Jews. Moreover, the group is in the process of reorganizing itself to respond more readily to the challenges it will face in the years ahead. Despite these changes, the soul and spirit of the CBA remain intact. It is an association of professional exegetes who have dedicated their lives to studying and researching the Scriptures for the sake of those who treasure them as God's inspired word.

On the occasion of its anniversary, the CBA spent some time reflecting on its past and future. Having just retired from the Catholic University of America, where I taught New Testament for the past twenty-four years, I offer a version of these reflections on where American Catholic biblical scholarship has been and what direction it might profitably take in the years to come.

Seventy-five years ago Catholic biblical scholarship was still laboring under a number of restrictive decrees issued by the Vatican's Biblical Commission at the beginning of the twentieth century. That situation began to change after Pius XII's 1943 encyclical *Divino afflante spiritu*, which made it possible for Catholic scholars to employ the historical-critical method. The decisive shift, however, came with the Second Vatican Council, whose *Dogmatic Constitution on Divine Revelation* (*Dei verbum*) identified the study of Sacred Scripture as the very soul of sacred theology and dealt with important questions such as the relationship between Scripture and tradition, inspiration, and the unity of the Bible. The council's three other dogmatic constitutions—on the church (*Lumen gentium*), on the church in the modern world (*Gaudium et spes*), and on the liturgy (*Sacrosanctum concilium*)—provided examples of a genuine biblical theology, one that went beyond mere proof-texting. By the close of Vatican II Catholic biblical scholarship in this country was poised for a major renewal.

The historical-critical method was firmly in place in the 1960s. Scholars such as John McKenzie, Barnabas Ahearn, and David Stanley had already opened new vistas in research for American Catholics, and others such as Raymond Brown, Joseph Fitzmyer, and Roland Murphy would soon dominate the field. Those of us who grew up amid this movement understood the text as something we could study objectively, just as we might analyze any ancient text. The guiding presupposition was that if we could get back to what the text meant, to what its authors intended,

we would know the meaning of God's word and be able to apply it to our contemporary situation—and do so in a way that would renew the church. In the field of Gospel research, we studied the New Testament in terms of its sources (source criticism), the documents' function in the life of the early church (form criticism), and the theology of each of the Evangelists (redaction criticism).

By the mid-1970s, however, things were changing. Literary criticism was supplanting redaction criticism, calling into question the historical-critical project; interpreters of the parables employed a new hermeneutic that suggested that the parables could be interpreted in different ways—for example, as metaphors or literary products that assume a life of their own apart from their historical context. And a greater shift occurred with the appearance of still newer methodologies: structuralism, the social sciences, rhetorical criticism, narrative criticism, feminist hermeneutic, the new historicism, postmodernism, postcolonial theory, and so on. Whereas the historical-critical method had formerly been the *lingua franca* that enabled biblical scholars to speak with one another, this new multiplicity of approaches, each with its own language and rules, led to a balkanization of the discipline. Exegetes suddenly found themselves awash in new and interesting methodologies that fractured the scholarly enterprise even as they enriched our understanding of the text.

It is not surprising that there have been so many turns in Catholic Biblical scholarship. After all, we live in a changing world, and once we introduce change there is no going back. The question, then, is not whether there will be more change in the years ahead, but what kind of change it will be. What would be most desirable? Is there a turn or shift that can unite the discipline while continuing to value its new and diverse methodologies? Allow me to make three suggestions.

First, a renewed turn to the theological dimension of the text that will make exegesis an act of theology as well as one based on history and cultural criticism. The most important questions we should be asking are: What does the text teach us about God? Who are we in relationship to God? What does the text teach us about how we ought to live? What claims does God make upon the world and our lives? I am not implying that Roman Catholic exegesis has neglected these questions; one only has to read the theologically rich commentaries of Raymond Brown and Joseph Fitzmyer to realize that these questions were always central to their work. But I am suggesting that



the proliferation of new methodologies necessitates a closer relationship between theology and exegesis, one that will enable the two to inform one another. Exegesis requires careful historical investigation, but its ultimate task is to uncover the theological dimension of the text. Understood in light of this task, exegesis is not merely a preparation for theology; it is rather an *act of theology*. This is why exegetes ought to think of themselves primarily as theologians rather than historians and cultural critics. No matter what methods exegetes employ, the final goal of their work ought to be an unveiling of what the text says about God and the human condition.

Second, I suggest a turn that will deepen our understanding of the word of God, by which I mean God's self-revelation. The ancient text that we study is also one that the believing community calls its Scripture—and takes as the normative rule for its life. In these Scriptures, the community hears the word of God, a word first spoken to Israel through Moses and the Prophets and now spoken to us through the Christ. If we are to appreciate the theological dimension of the text, we need to deepen our understanding of it as the word of God, as God's self-revelation to the believing community and through that community to the world. To accomplish this task, we must return to foundational questions such as revelation and inspiration, Scripture and tradition—questions that exegetes have too often left to theologians.

When I was a young student, one of the most powerful experiences I had of God's word came from reading Karl Barth's commentary on Romans. Though at times I hardly understood what I was reading, I did understand that what I was hearing, through Barth's commentary, was *God's* word. I understood that I stood *under* this word rather than over it; that it was not I who judged the word, but the word that judged me. While I am not calling for a Barthian exegesis, I do believe that we can learn something from Barth about the awe with which we should stand before the text we dare to hold in our hands. This is no ordinary text from antiquity; rather, it is God's word in human words; it is the word that judges, accuses, and ultimately saves us.

Finally, if we are to approach the text theologically as God's word, I suggest a turn that enables us to hear the Scriptures as a unified word that speaks of God's revelation to us. Do not misunderstand me; I am not calling for an ahistorical, purely Christological exegesis of the Old Testament that would dismiss the gains of modern Old Testa-

ment scholarship. Nor am I suggesting that we overlook the diverse theologies present in the Old and New Testaments. The historical-critical method provides an indispensable starting point for a theological reading of the text for at least two reasons. First, it helps us to understand how those who originally composed the material conceived of its theological meaning. Second, it guards against theological interpretations that do not respect the incarnational nature of God's word. A theological interpretation of the text that is fully cognizant of the historical situation out of which the text grew, however, must further ask how the historically and theologically diverse writings of the Old and New Testaments form a book that witnesses to God's singular word of revelation. Most attempts to articulate the theology of the New Testament (such as those of Udo Schnelle, Joachim Gnilka, and myself) do a credible job of elucidating the theology of its individual writings; but only a few scholars have taken on the more daunting task of relating the theologies of the two testaments to each other. And while the works along these lines

of such scholars as Brevard Childs, Ferdinand Hahn, and Peter Stuhlmacher are a good beginning, there remains a need for a more comprehensive theological approach that investigates the diverse theologies in the Old and New Testaments in order to see how the different voices of each testament witness to God's singular self-revelation through Israel and Christ.

American Catholic biblical scholarship is richer now than it was seventy-five years ago. The legacy of Raymond Brown, Joseph Fitzmyer, and

Roland Murphy continues to nourish us, as does the work of contemporary scholars such as John Meier, Harry Attridge, Sandra Schneiders, Daniel Harrington, John Donahue, PHEME Perkins, Lyn Osiak, Donald Senior, Luke Timothy Johnson, and a new group of younger scholars whose names are just now becoming known. But if this scholarship is to fulfill its promise, it needs to focus on what remains most important to the believing community: the theological dimension of the text. Whatever turn comes next, I hope it leads to a deeper appreciation of the theological meaning of God's word. Such a deepening can only strengthen this discipline that we, as exegetes, revere for the way it nourishes and transforms our lives and the lives of those we teach. ■



Karl Barth

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# The Court & Marriage

## Three Views

Richard W. Garnett, Michael J. Perry, Marc O. DeGirolami

### Richard W. Garnett

The late-June release of the Supreme Court's more controversial or culturally salient decisions has become a major media event—like the Oscars, or the Election Day tallying of the midnight ballots from Dixville Notch. Refreshing, if archaic, rules prohibiting cameras and live broadcasting from the Court cause tens of thousands to glue themselves to celebrity law-reporters' Twitter feeds and the SCOTUSblog webcast.

That said, and the end-of-session drama notwithstanding, few Court-watchers or constitutional-law experts were actually surprised when, in *United States v. Windsor*, a narrow majority ruled that Section 3 of the Defense of Marriage Act, which comprehensively defined "marriage" and "spouse" in federal law to exclude same-sex partners, was unconstitutional. Although there were some puzzling and fuzzy "federalism" and "state sovereignty" aspects of Justice Anthony Kennedy's opinion for the majority, the bottom line of the Court's holding was fairly clear and widely expected: a narrow majority of justices agreed that the challenged section of DOMA unconstitutionally deprives some persons of the "equal liberty" protected by the Fifth Amendment. In *Hollingsworth v. Perry*, the Court let stand a trial-court ruling invalidating California's Proposition 8, which outlawed same-sex marriage.

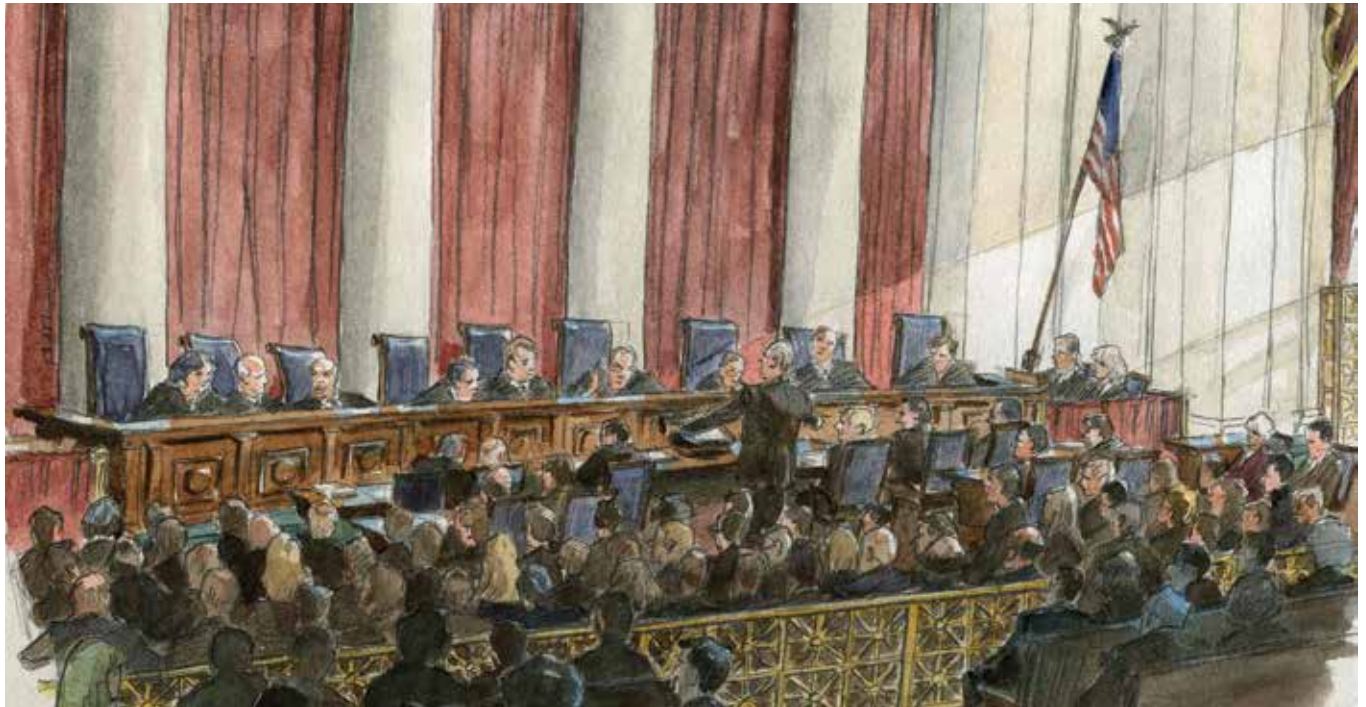
As it happened, the Court's decisions in *Windsor* and *Perry*, were announced in the middle of the second annual "Fortnight for Freedom," during which the U.S. Catholic bishops have urged Catholics and their fellow citizens to focus on the importance of, and the threats to, the fundamental human right to religious freedom. Do the Court's *Windsor* and *Perry* decisions, and the recent moves in several state courts and legislatures to include same-sex unions in the legal definition of "marriage," constitute such a threat?

It might seem that they do not, because—as President Barack Obama observed in his statement responding to the rulings—"how religious institutions define and consecrate marriage has always been up to those institutions" and "nothing about [the Court's] decision—which applies only to civil marriages—changes that." It is true that core and unlikely-to-change First Amendment doctrines would

almost certainly prevent any attempts by the states or the federal government to direct or limit "how religious institutions define and consecrate marriage" for their own internal, "religious" purposes. Indeed, some have argued—as Paul Griffiths did, for example, in *Commonweal* ("Legalize Same-Sex Marriage," June 28, 2004)—that both the church's freedom and "Catholic marriage practice" could be helped rather than hurt by the "disentanglement of sacramental marriage from state-sponsored contractual marriage" and, relatedly, by the legal recognition of same-sex marriage.

Griffiths is right to warn Christians against allowing debates about the government's treatment and definition of marriage to distract us from, or absolve us for, the troubling fact that we too often fail, in our "practice," to bear effective witness to what he calls the "seductive beauty" of the traditional understanding of marriage. I worry, though, that—as the editors of *Commonweal* have observed ("Protecting Religious Freedom," July 29, 2011)—the dangers to religious freedom posed by the legal redefinition of marriage are real and that "disentanglement" is not a stable or feasible response to those dangers.

In an important 2008 volume called *Same-Sex Marriage and Religious Liberty: Emerging Conflicts*, an ideologically diverse collection of scholars identified carefully the many "potential church-state conflicts" that have been and will be "triggered by redefining legal marriage." Again, these conflicts need not involve direct regulation of sacraments or rituals in order to challenge, threaten, or undermine believers' and communities' religious liberty. Instead, what is likely to happen—what is already happening, in fact—is that these conflicts will erupt and play out not within religious communities themselves but in the sphere of civil society, where they will involve, for example, requirements for professional licensing and accreditation, limits on religiously inspired expression and advocacy regarding marriage in public education and employment, conditions on otherwise generally available public benefits or on cooperation between governments and religious social-welfare agencies, expansions of the wide range of antidiscrimination laws and conscientious objections to those laws' application, and attacks on the charitable and tax-exempt status



The Supreme Court hears oral arguments in *Hollingsworth v. Perry* (drawing by Art Lien).

of religious entities that adhere in their practices and teaching to the traditional view of marriage.

In recent years, a group of law professors (including me) with differing views on the policy merits of changing the legal definition of marriage has presented to legislators in various states a detailed analysis of these and other live and potential conflicts, and urged them to include in any new legislation not merely superfluous affirmations of churches' authority over their own sacraments but also "meaningful religious-freedom protections," for both individuals and institutions, in both the private sphere of worship and belief and the public square of civil society. The group's letters, in other words, take seriously the acknowledgment by President Obama and other prominent same-sex-marriage supporters that there are fair-minded and decent people on both sides of the argument, and remind lawmakers that both prudence and principle counsel protection and respect for the consciences of religious believers and the distinctiveness of religious institutions.

These interventions have had nontrivial but admittedly modest effect. They have been criticized by some same-sex marriage advocates for privileging the irrational and atavistic objections of some over the full equality of others and, at the same time, they have been given low marks by some proponents of traditional marriage for offering naïve and premature concessions to an aggressive and uncompromising political and cultural campaign. Nevertheless, I continue to believe that it is important and worthwhile for those who see and embrace the connection between human dignity and the human right to religious freedom to do what they can—even if it does not seem like very much—to protect

that right in and through law. Such work is not inconsistent with equally important efforts to, charitably and prudently, align the positive law with the truth about the person and enlist it in the service of the common good.

Justice Kennedy's *Windsor* opinion and much of the commentary celebrating it provide good reasons to be wary and worried. The limited scope of the Court's decision should not obscure the sweeping nature of its reasoning. Ultimately, Section 3 of DOMA was struck down not so much because it intruded upon the policymaking prerogatives of the sovereign states but because—in Kennedy's words—it "humiliates," "demeans," "disapprov[es]," and "seeks to injure." It reflects, he charged, a "bare congressional desire to harm" and "writes inequality into the entire United States Code." It is unconstitutional, really, not because it imposes a "one size fits all" definition and thereby hamstringing state-level experimentation, but because the Court majority thinks it reflects unsound, unreasonable, unenlightened, and unattractive opinions about marriage and family.

It is easier to respect religious freedom in law and policy when everyone agrees or when governments do not do very much. With disagreement and regulation, however, inevitably comes conflict between religious commitments and legal requirements and, when it comes, the majority tends to take care of itself. What about the rest? In a constitutional democracy like ours, we are generally willing to absorb some costs and suffer some inconveniences in order to accommodate the invocation of rights by dissenting or idiosyncratic minorities, especially when the majority thinks that it has a stake in those rights. For example, America still



takes a robustly libertarian approach to the freedom of speech, and protects offensive and worthless expression to an anomalous extent, because most Americans still think that protecting misuses and abuses of the right is “worth it.”

However, as religious liberty increasingly comes to be seen as something clung to by a few rather than cherished and exercised by many, as religious traditions and teachings start to strike many as the expensive and even dangerous concerns of quirky, alien margin-dwellers, and as the “benefits” of allowing religious believers’ objections or religious institutions’ independence to stand in the way of the majority’s preferred policies begin to look more like extractions by small special-interest groups than broadly shared public goods, we should expect increasing doubts about whether religious liberty is really “worth it.” We should be concerned that the characterization by the majority in *Windsor* of DOMA’s purpose and of the motives of the overwhelming and bipartisan majority of legislators that supported it reflects a view that those states—and religious communities—that reject the redefinition of marriage are best regarded as backward and bigoted, unworthy of respect. Such a view is not likely to generate compromise or accommodation and so it poses a serious challenge to religious freedom.

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## Michael J. Perry

In consequence of last month’s Supreme Court ruling in *Hollingsworth v. Perry*, California has rejoined twelve other states and the District of Columbia in issuing marriage licenses to same-sex couples. That leaves thirty-seven states that still refuse to recognize same-sex marriage. Does that refusal violate the Constitution—and if so, why?

The Court in *Hollingsworth v. Perry* avoided answering that question. Instead, the Court ruled that it did not have jurisdiction over the case because the state officials who would ordinarily defend in court a state law challenged as unconstitutional declined to do so and the private parties who

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wanted to defend the law in court lacked “standing” to do so. The Court therefore left in place (without affirming) the ruling of the federal trial court in San Francisco that Proposition 8, a referendum-approved constitutional amendment that excluded same-sex couples from civil marriage, violated the equal protection clause of the Fourteenth Amendment.

In the other case handed down on same-sex marriage, *United States v. Windsor*, the Court ruled both that it had jurisdiction over the case and that the Defense of Marriage Act’s exclusion of same-sex marriages from the federal definition of “marriage,” and therefore

from the many federal benefits granted to married couples, was unconstitutional. In the majority opinion, Justice Anthony Kennedy, speaking for himself and Court’s four more liberal justices, concluded that DOMA violated the equal protection guarantee of the Fifth Amendment’s Due Process Clause. DOMA violated equal protection, reasoned the majority opinion, because the exclusion of same-sex couples from civil marriage was based on a demeaning view of such marriages as “second-class”—that is, as morally inferior to opposite-sex marriages. As the majority put it, “the differentiation demeans the [same-sex] couple...whose relationship the state has sought to dignify. And it humiliates tens of thousands of children now being raised by same-sex couples. The law in question makes it even more difficult for the children to understand the integrity and closeness of their own family and its concord with other families in their community and in their daily lives.”

In my judgment, the Court made the right decision in *Windsor*, but the majority was much less clear than it should have been about *why* DOMA’s exclusion of same-sex marriages was unconstitutional. Kennedy’s opinion for the majority should not have put any weight on the alleged “animus” of those opposed to same-sex marriage. “Hate your neighbor or come along with us,” was how Justice Antonin Scalia characterized Kennedy’s reasoning. Scalia’s indignation was understandable. Kennedy’s suggestion that DOMA was based on the view that gays and lesbians are inferior human beings is tendentious in the extreme, and demeaning to all those who, for a host of nonbigoted reasons, uphold the traditional understanding of marriage as an essentially heterosexual institution. Kennedy should have avoided



casting such stones, for there were ample grounds for his judgment in the protection the Constitution affords to the individual's right to religious and moral freedom.

To be sure, some persons oppose same-sex marriage because they judge gays and lesbians to be inferior human beings. As the Connecticut Supreme Court has noted, gays and lesbians are often “‘ridiculed, ostracized, despised, demonized and condemned’ merely for being who they are.” Justice Kennedy was right to argue that such “demeaning” views cannot be the basis for marriage laws in our constitutional system. Yet, many who oppose same-sex marriage—including the magisterium of the Catholic Church—do so for a different reason. The church teaches not that gays and lesbians are inferior but that same-sex sexual conduct is immoral. Moreover, the bishops insist that their condemnation of same-sex sexual conduct is not based on revelation but on natural-law reasoning, and in that sense it is not a sectarian religious belief. Indeed, according to the magisterium, it is immoral not just for same-sex couples but for anyone and everyone—even a man and a woman who are married to one another—to engage in any sexual conduct that is “inherently nonprocreative.” Because “what are called ‘homosexual unions’...are inherently nonprocreative,” declared the Administrative Committee of the U.S. Conference of Catholic Bishops, they “cannot be given the status of marriage.”

I accept the bishops' argument regarding the nonreligious nature of their opposition to same-sex marriage. The burden for the bishops, however, is the high bar set by the Constitution's protection of religious and moral freedom—often called freedom of conscience. That right, recognized in international law, protects one's freedom to live one's life in accord with one's religious or moral convictions and commitments (see my book *Human Rights in the Constitutional Law of the United States*). Of course that right is not unconditional. Government may interfere with one's freedom to live one's life in accord with one's religious or moral convictions and commitments in order to protect “public safety, order, health, or morals or the fundamental rights and freedoms of others.” Protecting public morals is undeniably a legitimate government objective. The crucial question, of course, is what morals count as *public*? Does a state's refusal to grant same-sex couples access to civil marriage protect public morals? If those laws are based

either on a religious belief that certain conduct is immoral or on the nonreligious belief of a minority—a narrowly held belief that is widely contested—government is not truly acting to protect *public* morals. It is acting, instead, to favor a minority's moral convictions, and that is not a legitimate government objective.

Admittedly, it is not always obvious when a particular nonreligious moral belief is a minority moral belief. In answering that question, it is helpful to keep in mind what the celebrated American Jesuit John Courtney Murray wrote to Boston's Cardinal Richard Cushing in the mid-1960s about laws decriminalizing access to contraception. “The practice [contraception], undertaken in the interests of ‘responsible parenthood,’ has received official sanction by many religious groups within the community,” Murray noted. “It is difficult to see how the state can forbid, as contrary to public moral-

ity, a practice that numerous religious leaders approve as morally right. The stand taken by these religious groups may be lamentable from the Catholic moral point of view. But it is decisive from the point of view of law and jurisprudence.”

Murray's reasoning offers a reliable guide when it comes to the legalization of same-sex civil marriage. At this point, not many people would dispute that the church's teaching about the immorality of inherently nonprocreative sexual conduct has become a conspicuously minority moral position. In this regard, it bears emphasis that the

**At this point, not many people would dispute that the church's teaching about the immorality of inherently nonprocreative sexual conduct has become a conspicuously minority moral position.**

teaching is famously controversial *even among Catholic moral theologians*, not to mention the larger community of religious ethicists. In this decades-long moral and social debate, the church has been singularly unpersuasive.

As the record in *United States v. Windsor* amply confirmed, DOMA's denigration of same-sex marriages was clearly based on the judgment that same-sex marriage is morally inferior to opposite-sex marriage. For some, that judgment rests primarily on the religious belief that same-sex sexual conduct is contrary to the will of God; for others, the judgment rests primarily on the nonreligious belief that all “inherently nonprocreative” sexual conduct is immoral. Neither belief, however, is a legitimate basis of government policy under the right to religious and moral freedom, a right that for almost fifty years—under the name “the right of privacy”—has been part of the constitutional law of the United States.

We may fairly say of state refusals to recognize same-sex marriage much the same thing Murray said to Cardinal Cushing about laws forbidding the distribution of contraceptives. Like contraception before it, same-sex marriage has received official approval by various religious groups within the community. It is difficult to see how the state can refuse to countenance, as contrary to public morality, a relationship that numerous religious leaders and other morally upright people approve as morally good. The stand taken by these religious groups and others may be lamentable from the Catholic Church's point of view. But it is decisive from the point of view of the right to religious and moral freedom.

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## Marc O. DeGirolami

**I**s the Supreme Court's view of the Defense of Marriage Act more powerful than Congress's? Is its judgment about California's Proposition 8 mightier than that of the people of California? When does the Court have the power to decide, and why? In popular accounts of *United States v. Windsor* and *Hollingsworth v. Perry*, questions of this sort have generally been muscled out by attention to the justices' political and moral beliefs about same-sex marriage. There was a vague awareness that something technical called "standing" might impede the justices from doing justice. But it was widely assumed that the Supreme Court *ought* to decide whether same-sex couples have a right to marry—that it was politically and constitutionally legitimate for it to decide in a way that bound the whole country. To the extent that it was considered at all, standing was generally felt to be an obstacle on the road to doing justice.

The pedantic view of standing is that it is merely a permission slip to get through the courthouse door: to get its case heard, a party must allege a concrete injury that is both traceable to the defendant's conduct and redressable by a court. Both of the same-sex marriage cases involved complex questions of standing. By the time the DOMA case reached the Supreme Court, Edith Windsor had already won her case in a lower court, whose decision the United States, the other party in the case, did not challenge. (President Obama had by then instructed the Justice Department to stop defending DOMA.) Is it proper for a higher court to intervene when there is no adversity between the parties and no injury to redress? A group representing some members of the House of Representatives sought appellate standing in the Court, and this too presented difficult questions about the power of Congress—in this case, members of one of its houses—to compel another branch of government to perform its constitutional obligations. In the Proposition 8 case,

one of the parties *was* asking the Supreme Court to reverse the decision of the lower courts. But because California's executive officials refused to defend Proposition 8 in court, the private citizens responsible for proposing Proposition 8 sought standing to defend it on behalf of the state—that is, on behalf of the popular majority that enacted Proposition 8. In the end, the Court came to the perplexing and counterintuitive conclusion that there was standing in the case with no legal adversity, and no standing in the case with legal adversity.

Stated in these dry terms, standing does seem fussy and irrelevant by comparison with the issue of the constitutionality of same-sex marriage. Standing is about getting the case heard, but it isn't really *about* the case, and hardly about anything as lofty as justice or civil rights. Yet standing seems tedious only because it is frequently detached from concepts intimately connected with justice—indeed, with nothing less than "justiciability," the fitness or propriety of judicial decision. Not every constitutional disagreement takes the right form for decision by a federal court; indeed, many questions of federal law never become justiciable at all. The "judicial power" under Article III of the Constitution extends to a limited number of "cases" or "controversies," but in order for even these to be justiciable, they must take the right shape for judicial decision. Standing is one—but only one—set of doctrines that gives a case its justiciable shape.

At its core, justiciability concerns the nature and duty of the judicial office. It poses a vital question of justice that precedes any substantive issue of civil rights. It asks, *What are judges for?* One of the most frequently intoned lines from any Supreme Court decision is that "it is emphatically the province and duty of the Judicial Department to say what the law is." But this line is misleading if read in a vacuum. It is emphatically *not* the province of judges to opine about the law in the abstract. It is not their province to state their views about the law whenever somebody gets it into his head to ask. That is not what judges are for. Judges—in our constitutional system and in many others—decide specific cases where the parties have a concrete stake in the outcome. As Chief Justice John Marshall went on to explain in *Marbury v. Madison* (1803), it only becomes the province and duty of judges to "say what the law is" when they are applying a "rule to particular cases" because they are then obliged "of necessity, [to] expound and interpret" the law. It is necessary to resolve the legal question only because it is necessary to resolve the case, not the other way round. "Rights," Tocqueville observed, "must be contested in order to warrant the interference of a tribunal; and an action must be brought to obtain the decision of a judge."

Chief Justice Roberts has been as mindful of the importance of justiciability as any current member of the Supreme Court. As a lawyer, he represented the government before the Supreme Court in a significant case about standing—*Lujan v. National Wildlife Federation* (1989)—in which the Court concluded that a group of wildlife-conservation activists who

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It is we who have the primary duty to make the law. We are given that duty by the federal and state constitutions, each of which provides representative mechanisms for us to discharge our duty. But the duty remains ours, not the Supreme Court's. Constitutions are collections of entrenched choices made by the people to obligate not only their representatives and official, but also themselves.

objected to certain land-use provisions made by the Federal Bureau of Land Management had not alleged a sufficiently concrete injury to render their complaint justiciable. And as chief justice, he has usefully connected standing concerns to the overarching question of the limits of judicial power. Writing for the Court in *DaimlerChrysler Corp. v. Cuno* (2006), a suit brought by Ohio taxpayers who objected to tax breaks that were given to a private corporation, the chief quoted John Marshall on the danger of expanding the meaning of a “case” so as to increase the Court’s power to expound the law. Marshall wrote that “case” was a term of “limited signification”:

If the judicial power extended to every *question* under the constitution it would involve almost every subject proper for legislative discussion and decision; if to every *question* under the laws and treaties of the United States it would involve almost every subject on which the executive could act. The division of power [among the branches of government] could exist no longer, and the other departments would be swallowed up by the judiciary.

Yet the question of relevance persists: Even if lawyers and judges pay attention to standing, why should the public care about it, particularly when matters of equality, freedom, and civil rights are jostling for the limelight?

First, because less is more. The Supreme Court wields its power within the constitutional structure only as long as it also retains a firm sense of the limits of that power. When it exceeds those limits, it disrupts the constitutional order and threatens its own authority. As always, Tocqueville saw this clearly:

The political power which the Americans have intrusted to their courts of justice is therefore immense, but the evils of this power are considerably diminished by the obligation which has been imposed of attacking the laws through the courts of justice alone. If the judge had been empowered to contest the laws on the ground of theoretic-

cal generalities, if he had been enabled to open an attack or to pass a censure on the legislator, he would have played a prominent part in the political sphere; and as the champion or the antagonist of a party, he would have arrayed the hostile passions of the nation in the conflict.

Or, as Justice Antonin Scalia put it in his dissent in the DOMA case, a free-floating power to say what the law is would be “an assertion of judicial supremacy over the people’s representatives in Congress and the executive”—an unsustainable exercise of judicial force that risks destroying the constitutional separation of powers.

Second, it is *we* who have the primary duty to make the law. We are given that duty by the federal and state constitutions, each of which provides representative mechanisms for us to discharge our duty. But the duty remains ours, not the Supreme Court’s. Constitutions are collections of entrenched choices made by the people to obligate not only their representatives and officials, but also themselves. Justice Kennedy’s dissent in the Proposition 8 case likewise notes that California’s popular initiative system represents a choice by the people of the state about where to vest law-making authority. A people that has no time for justiciability is more likely to cede its law-making powers and duties. Eventually, it will not even remember what power it has surrendered. It will then have the judges it deserves.

There have been and there will continue to be disagreements about the merits of same-sex marriage. But disagreements about justiciability are legally prior to the question of civil rights. It would be welcome if they received comparable public attention, debate, and deliberation. ■

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# An Ancient Dispute

## *Shiites, Sunnis & the Future of the Middle East*

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Patrick J. Ryan

Americans wonder what is going on in the Middle East these days, especially the civil and religious strife that is tearing Syria apart—and, potentially, Lebanon and Iraq along with it. Modern Christians, even Catholics and Protestants in Northern Ireland, have little appetite for going to battle over religious differences. Within the House of Islam, however, ancient antagonisms between Sunni and Shiite Muslims are alive and well; indeed, they are currently devastating the heartland of the religion. What is the source of the division between Sunnis and Shiites, and how prevalent is this bifurcation in the whole Islamic world, a community of more than 1.6 billion people?

That Muslims, and especially Arab Muslims, can be divided by ancient disputes should not surprise us. The late William Montgomery Watt, a Scottish Anglican priest and eminent historian of Islamic thought, once wrote that “for Muslims as for Irishmen history is still alive. The Islamic community is still divided by events that took place in 632 and 656.” Indeed, the factions that we call Sunnis (89 percent of the world’s Muslims today) and Shiites (10 percent) trace the great divide between them to the seventh century and the aftermath of Muhammad’s death. Shiites originated in the faction (shia) devoted to Ali, Muhammad’s cousin and son-in-law, who contended unsuccessfully with Abu Bakr, Muhammad’s father-in-law, to succeed the Prophet in the newly created post of caliph. In the years that followed, continuing intrigues and battles over this succession deepened the rift between Sunnis (those who follow the *sunna* or path of Muhammad) and Shiites (the partisans of Ali).

This initial rift was compounded over the centuries by a recurring pattern of struggle within Islam between strains of militant puritanism and the less rigorous attitudes of various ruling classes. Such a puritanical ideology arose within Sunni Islam in the fourteenth century, exemplified by the teaching of a formidable Syrian scholar, Ahmad ibn Taymiyya. His doctrine, though popular among many Muslim Arabs in his lifetime, placed him at odds with Muslims of a more laxist point of view. In the eighteenth century in the Arabian

peninsula, the reformist teacher Muhammad ibn Abd al-Wahhab used the rigoristic ideas of Ibn Taymiyya to fashion the tradition of strict interpretation of Islamic texts usually called “Wahhabism” by non-Muslims today. To propagate his ideology, Ibn Abd al-Wahhab collaborated with the sheik of an obscure village in north central Arabia, Muhammad ibn Saud, and between them they imposed unified rule and their new, rigoristic version of Islam throughout the Arabian peninsula. Muslim legal scholars belonging to the family of Ibn Abd al-Wahhab continue to the present day as religious and legal advisers of the House of Saud, the ruling family of Saudi Arabia.

Other Sunni reform movements of a similar puritanical cast arose in India in the eighteenth and nineteenth centuries, as well as in Egypt in the early twentieth century, most notably the Muslim Brethren founded by Hasan al-Banna (d. 1949), and the even stricter reformers called “Salafis,” who refuse to recognize any religious developments in Islam after the period of the *salaf* (the upright ancestors), comprising the generation of Muhammad and the two following generations. Many Egyptian Salafis are, in fact, Wahhabis, but dislike that name for its political connection with the regime in Saudi Arabia. A Salafi political party finished second to the Muslim Brotherhood in the Egyptian elections of 2011 and 2012, and its chances in future elections may be even better now that the Muslim Brotherhood has been thrown out of power by the country’s military.

The military defeat of Ali in the battle of Siffin on the banks of the northern Euphrates in Syria in 657 and his death at the hands of an assassin four years later left his descendants as pretenders to the shadow headship of the Muslim world. They and their devotees created what came to be called the Shiite Imamate, which grew in religious significance over the two centuries following Ali’s death. Its conception was and is deeply based in motifs of martyrdom. While Sunnis claim that Ali’s son and successor, Hasan, died in bed of natural causes, Shiites consider him a martyr. Ali’s younger son, Husayn, the third Imam in the Shiite lineage, died on the battlefield of Karbala in Iraq in 680 fighting Yazid, the Sunni caliph in Damascus. Shiites annually act out passion plays about the death of Husayn, mourning extravagantly for him, his father, and his entire family. The mother of Hasan

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A street in Aleppo, December 27, 2012

and Husayn, Fatima, the wife of Ali, is said to have died in sorrow only six months after Muhammad. Veneration for her in Shiite settings portrays her as a Muslim *mater dolorosa*. Indeed the descendants of Ali to the ninth century are all believed by Shiites to have died as martyrs, victims of oppression by the Sunni caliphate.

One can trace a line from these distant events and antagonisms, with their churning reversals of fortune, to the conflicts of today. At the death of the eleventh Imam in the Shiite lineage, Hasan al-Askari, it is said that allies of the Imamate hid his little son from Sunni enemies. Calling themselves the representatives of the Hidden Imam, four of these allies in succession governed the Shiite community on behalf of the Hidden Imam for seventy years. Eventually a military upstart dynasty, the Buyids, originally based in Iran, took on the cause of the Twelfth Imam and imposed themselves in 945 as his representatives—and as the overlords and protectors of the Sunni caliphate based in Baghdad. Such Shiite military supervision of the Sunni caliphate reduced the caliphate to a puppet dynasty, with only a few partial returns to genuine political power in subsequent centuries. Sunni resentment of Shiites even today consciously or unconsciously recalls this humiliation.

Representing the Twelfth Imam has provided many subsequent Shiites with a symbol for their political aims; the most recent representatives in Iran have been the Imam Ruhollah Khomeini and his successor, Ayatollah Ali Khamenei. Iran since the revolution of 1979 has evolved a totally new definition of the role of representative of the Twelfth Imam, concentrating all powers in the hands of one supreme specialist in Shiite Islamic law, the “Guardian Jurist.” The alliance of the Guardian Jurist with the thuggish Revolu-

tionary Guard has precluded any significant political change in Iran over the past three decades, despite many popular attempts at democratization. (Whether this will change with the recent election of Hasan Rowhani as Iran’s president remains to be seen.)

The comparatively small numbers of Shiites worldwide should not cause us to dismiss them as an insignificant minority. In Iran, Shiites represent 90 percent of the population; in Iraq, 60 percent; and in Lebanon, at least 35 percent. And while only 1 percent of Syrians are Shiites, a Muslim sect called the Alawites, adherents to a Gnostic version of Shiite thought, make up 12 percent of the general Syrian population—and a much larger percentage of the Syrian army. This large presence of Alawites in the army is a legacy of the French mandate in Syria after World War I, when French administrators, after fighting the Alawites at first, eventually enlisted them into their service—and ensured their hold on military power when Syria became independent in 1946.

Since 1971 two Alawites, father and son, Hafez al-Assad and Bashar al-Assad, have held the powerful presidency of Syria. Alawite military and political domination has given them totalitarian control. In response, certain members of Syria’s Sunni majority—more than 70 percent of the population—have sought alliances with such Sunni powers as Saudi Arabia and Qatar in an attempt to oust the Assad regime. And even though the connection between the Alawites’ Gnostic faith and mainstream Shiite Islam is tangential at best, in recent weeks both Shiite Iran and its southern Lebanese Shiite clients, Hezbollah, have come out in favor of the beleaguered Alawite-dominated government of Syria. Hezbollah, long an antagonist of Israel on Lebanon’s southern border, has turned from attacks across the borders of northern Israel and has taken up arms against

## RECIPE BOOK

The hand-bound book is brittle  
Note the fingerprints done in cinnamon,  
the accidental watercolors too where ink bled from steam:  
a recipe for Persian Rice penned in red cursive,  
clearly hers, has nearly  
disappeared

At the time we had a corded phone.  
You could go only so far before taking out  
a vase of Daffodils.  
I'm sure this is why phone numbers are recorded  
in the corner of pages.

There are sicknesses  
and dinner parties  
and Sunday afternoons when nobody  
knew what to make,  
and the reason  
we have this book, I guess,  
is that some things turn out better than others, It

was summer.  
We had no money, but cardboard boxes full  
of nightshade vegetables—tomatoes, potatoes, eggplants—  
lined the small apartment.  
A lady at the market traded us flowers

I started saving the iridescent scraps of onions  
trying to understand what could be  
taken to the back yard and buried and become,  
next spring, a garden

It was the sweeter yellow tomatoes rising  
where we dumped only red  
that made me think, much later, it was okay  
to have clams for Christmas,

and it was best (she was right),  
if the homeless came  
and afterwards we all sang O Come, O Come  
Emmanuel on the porches of people who  
preferred to be alone.

And now in the cold kitchen, as the smell  
of coriander and cumin warmed in oil rises,  
I am grateful to know what can  
and cannot be used  
in place  
of these missing spices.

—Emily Stout

*Emily Stout is a graduate of the University of  
Illinois, Champaign-Urbana English Program.  
She works nights as a registered nurse in the  
oncology department of a Midwestern hospital.*

Sunni Muslims in Syria. Long dependent on Iran for fund-  
ing, Hezbollah and its spiritual leader, Hasan Nasrallah,  
hint darkly about a supposed Sunni jihadist alliance with  
the Jewish State against the government of Bashar al-Assad.

And so Sunni and Shiite histories remain inextricably  
linked in the Middle East today, restraining people and  
politics alike in a kind of stranglehold. Arnold Toynbee  
once wrote that the Arabic word *nahniyya*—"we-ness," an  
abstraction derived from the pronoun "we" (*nahnu*)—lies at  
the root of much human woe, and especially the woe man-  
ifest in the Middle East, where Europe, Asia, and Africa  
meet. When push comes to shove in this region, revealing  
the fragility of the states created after World War I, pro-  
tagonists revert to identities of ancient vintage: Sunni and  
Shiite, first of all, but also Alawite, Maronite, Melkite,  
Druze, Copt, Chaldaean, and last but not least, two larger  
polarities, Arab and Ajam (non-Arab), Jew and Gentile.

To what extent are these divisions genuinely religious,  
and to what extent do they incarnate the persistent human  
orneriness that continues to express itself in terms of ancient  
rivalries and their symbols? I am not sure how to answer

these questions. I am certain that the history of the Middle  
East before modern times, and especially its many religious  
and cultural polarities, demands far more attention than it  
has received from policymakers in the United States since  
World War II. In the absence of such study, simple-minded  
analyses of contemporary Syria and its neighbors by war-  
mongering journalists and politicians threaten to plunge  
the United States into another debacle like the wars in Af-  
ghanistan and Iraq. Reconsidering the borders established  
in the Middle East after World War I will require much  
painful overcoming of established prejudices.

The Northern Irish poet Seamus Heaney knows all too  
much about the long-simmering history of prejudice. These  
lines from his verse drama, *The Cure at Troy*, a retelling of  
Sophocles's *Philoctetes*, might give us something to meditate  
on in today's religiously divided Middle East: "History says,  
Don't hope / On this side of the grave. / But then, once in a  
lifetime / The longed-for tidal wave / Of justice can rise up,  
/ And hope and history rhyme." One hopes, despite history,  
that the tidal wave now hitting the Arab world will bring  
a greater measure of both justice and peace. ■

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# Looking Away

## *Funerals Aren't What They Used to Be*

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Paul J. Schaefer

As I draw closer to my own death, reasonably healthy but in my late seventies, I have begun to think about funeral rites and how they have changed since I was a boy. I grew up in the era of open coffins, Requiem Masses, and somber sermons reminding us that our own end was near, followed by large family gatherings at the homes of the deceased. The past thirty years have brought major changes to these arrangements. Recently, close friends—nonreligious friends—chose cremation for their father and husband, scattering his ashes in their apple orchard; people dropped in casually, over the course of a weekend, to mourn with them, remembering him lovingly through fond stories. The wife of a nonobservant Jewish friend chose cremation when he died, and at his memorial service his musician son blew a shofar salute to give the service its one and only ritual note.

At a recent funeral for my beloved niece, I saw a typical mixture of old and new. The service, held in a Catholic church, adopted a tone of cheerful celebration, with the priest dressed in white, the Psalms—at my niece's request—sung by a Jewish cantor, and the eulogy delivered by a friend who quoted amusing excerpts from my niece's letters and e-mails. The priest's few words made no reference to those of us who would exit next. For my niece, this seemed exactly right. Her life had been one of giving and joy that persisted despite a long illness. But it still left me wondering why final rituals, some of which go back two millennia, have changed so markedly in the past fifty years.

In 1948, as a sophomore at St. Mary's High School in Burlington, Wisconsin, I purchased Evelyn Waugh's novel *The Loved One* at a school book sale. I think Sr. Perfecta recommended writers like Waugh and Graham Greene to her students because she was proud that these sophisticated English novelists had become Roman Catholic converts. Whatever her reasons, Waugh's satire fit the mood of a teenager searching for a view of anything beyond the confines of a small Midwestern town. I recall laughing out loud at Waugh's portrayal of the strange ways people in Hollywood approached death—masking it in stagecraft and

using euphemisms, like “the loved one,” for the deceased. I laughed because, while I was as American as anyone, I had never experienced death the way Waugh described it. It was not Catholic to pretend that death was not real. I had genuflected and crossed myself through dozens of Requiem Masses. I had been the server, holding the cross mounted on a tall wooden pole, leading the procession of the coffin down the aisle. I knew the entire grief-stricken wail of the *Dies Irae* by heart. Death was routine for me at fifteen—a boy with the hard heart of youth, who didn't truly believe in his own mortality.

The central theme in Waugh's spoof is the conflicted relationship between Mr. Joyboy, the head embalmer in a mortuary in Hollywood Hills, and his girlfriend Aimee Thanatogenous, a mortuary cosmetician. As corpses move down the factory-like assembly line from Mr. Joyboy to Aimee's station, where she rouges and lipsticks their faces, she is able to discern how her relationship with Mr. Joyboy is progressing—positively or negatively—by noting that the “loved ones” she receives from him are either smiling or frowning when they reach her. After Aimee and Mr. Joyboy finish their work, the bodies are placed for viewing in “slumber rooms,” sometimes sitting up in a chair while “holding” a flower in one hand as they “sleep” with their heads resting on the antimacassars.

Waugh never considers the possibility that the coffin might be closed. Nor did most Americans and Europeans at the time. I was five years old in 1939 when my parents took me to see the body of my grandmother. Only her head and shoulders were visible in the half-opened, glossy wooden box in her bedroom as my father led me to the coffin, instructing me to kneel at the small red-velvet prie-dieu and say a prayer. A few years later, I went to a funeral parlor for the viewing of a neighboring farmer who had died from something my parents called yellow jaundice. (I argued with my brother Jimmy, who said the farmer's body would look as yellow as a Chinaman; I said that was impossible.) And by the time I viewed the body of a fourth-grade classmate who died of leukemia, I was an open-coffin veteran.

Then came a large family funeral for my cousin Robert and his baby daughter, killed when Robert, a young farmer, failed to see an oncoming train at the railroad crossing. This

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was the first funeral I ever attended with closed coffins, and I recall conjecturing morbidly on how mangled the bodies must have been. Afterward we all went back to my aunt and uncle's house, where the kitchen and dining room were swamped with chocolate and angel food cakes, apple and peach pies and casseroles of pork and beans next to shanks of ham. If the Irish salved the wounds of losing relatives and friends with alcohol, we Germans did so with food. Aunt Esther, her eyes filled with tears, begged us to eat so that "all this food won't go to waste." Over full plates, family members told stories about what Robert was like when he was a little boy and about the sweetness of his child. We laughed and cried as we filled our bellies.

My cousins' closed coffins seemed an oddity in the 1940s because the display of bodies has been a part of pagan and Christian funeral customs since the time of the Greeks and Romans. The Greeks washed and oiled the corpse, then dressed it for friends and relatives to view. The Romans placed the body on a high pedestal in the home for viewing, somewhat in the way my grandmother was laid out in her own home. In the United States, having the body at home—unembalmed—was the general custom up to the middle of the nineteenth century. The Rodgers and Hammerstein musical *Oklahoma!* includes an odd, witty song, "Pore Jud is Daid," whose final lines warn, "He looks like he's asleep. / It's a shame that he won't keep. / But it's summer and we're runnin' out a ice." A "cold table" was indeed used as the final viewing place for most corpses until the latter part of the nineteenth century. Lincoln's assassination and burial in 1865 seems to have been the turning point. Displaying his body before millions of people as it wended its way slowly by train from Washington to Illinois required embalming. Soon many American families were following the Lincoln example.

A century later, my generation began to question the need for embalming—or caskets, or even funerals themselves. With cremation there's no rush, so why not have a memorial service later on, on a sunnier day when family members and friends are less overwhelmed by grief—a kind of open

house, where people drop in to console the bereaved? Even for those who held more traditional religious services, viewing the body became less and less popular. I was part of those changes in attitude. It is hard to explain why, but it came to seem neater and less upsetting to put the body in a closed box. No need to see it in order to say a last goodbye. Many found meeting at the funeral home more comfortable without the body intruding on the conversation. On more than one occasion, when a corpse was displayed, I can remember people quietly saying as they left, "Why did they have to have an open coffin?"—almost as if it were a breach of good manners.

Jessica Mitford's bestselling 1963 book *The American Way of Death* speeded some of these changes. Like Waugh, Mitford expressed outrage at American funeral practices, which she saw as a concerted campaign by the funeral industry to rip off the public. Cremation was far cheaper than

embalming—and to drive home her point Mitford directed that when she died her body be cremated. (Reportedly her 1996 funeral cost only \$533.31, at a time when the average funeral cost over \$4,600.) But cost doesn't seem to be the primary reason for the sweeping changes in the way we treat death. In fact, the more affluent you are, the more likely it is that you will have cremation as opposed to a traditional viewing and burial; in 2010, only 14 percent of those deceased in Mississippi were cremated, compared with over 60 percent of those who died in New Hampshire, a far wealthier state. Clearly cultural differences are more important than cost.

Another reason given for cremation and closed coffins these days is that we shouldn't needlessly upset

our children. Yet my experience tells me that children accept death with equanimity. An Irish friend told me about a wake for an elderly grandmother held at her home on Boston's South Shore. It was interrupted by an epic storm that snowed in the entire region. The body was on view in the home with all the relatives gathered when the storm hit, delaying the funeral and burial by three days. By the last day, three little boys had become so accustomed to the corpse of their great-grandmother that they took to playing their card games sitting underneath the coffin.





My father's funeral a few years back was a traditional one, with an open coffin. He would not have wanted cremation. When it was over, what I found myself missing was that old German custom—the consoling warmth of heaping plates of food brought by neighbors and cousins and aunts. There were no shanks of ham or casseroles of pork and beans, and very few stories were told. Instead of going to the family farm, we were fed lunch in the basement of the church: platters of sliced turkey breast and square pats of butter with which to make our own sandwiches on white bread. Next to these were little individual cups of deli coleslaw. Paper-clad cupcakes were the only dessert. There wasn't a lot of laughter—or tears. We ate at card tables set for four, quietly exchanging small talk about children and grandchildren, and left quickly to return to busy lives.

Many of the changes in our funeral rites remain unsatisfying, even for someone who more or less concurred in them. At the core of those changes lies a certain turning away from death itself. I doubt that Evelyn Waugh, who died in 1966, would have guessed how surreptitiously today's "loved ones" would be handled: bodies that simply disappear and come back in little urns and boxes. The average cremation rate nationally in 1960 was 3.56 percent. By 2010 it was 40.62 percent. Two funeral directors I know, one in New York and the other in Wisconsin, tell me that mourners are less and less comfortable when bodies are on display. Many do not go up to the casket; instead they mill around in the rear of the funeral home. Funeral homes are now adding crematoriums to make up for the lack of embalming income. So why haven't we gone back to preparing the body at home, as in the nineteenth century and for thousands of years before? The answer is that modern Americans are too fastidious to be intimate with death. It is we adults who are frightened, not the children.

**W**hen I die, I have no desire to be rouged and combed and viewed by my grandchildren while lying in a casket. Sixty years after leaving a working farm where odoriferous death was as present as teeming life, I have become as air-conditioned, hand-sanitized, and vacuumed as everyone else in the suburban middle class. I too want to keep my distance from the messiness of death. So how can I tell others to face its reality head-on and ask my wife and daughters to wash and dress and prepare my body?

What I *will* ask is that my family and friends revive at least one old German tradition. However they decide to dispose of my body, and after whatever kind of service they choose, I want them to sit down together at a large table laden with comforting food. Chocolate layer cake and peach pie will help soothe their hearts, and the picture in my mind of them mourning with good food and laughter as well as tears makes me smile as I write this. Lost parents, spouses, children, or dear friends are buried in memory's shallow graves. Their ghosts break through the everyday topsoil of our minds at the most unlikely moments. ■

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## Words & Deeds

'HANNAH ARENDT' & 'A HIJACKING'

**T**he German-Jewish political philosopher Hannah Arendt (1906–1975) lived a life emblematic of her era, a casualty of Hitler's rise to power who emigrated to the United States and became a prominent New York intellectual. But singular aspects of her curriculum vitae lent her a special gloss of fame—first as the student and lover of the philosopher Martin Heidegger, and second as the writer of a five-part *New Yorker* report on the 1961 Israeli trial of Adolf Eichmann. Those articles and her subsequent book, *Eichmann in Jerusalem*, ignited an incendiary controversy among Jewish intellectuals and other observers who accused Arendt of downplaying Eichmann's crimes while showing insufficient sympathy for his victims. Residual echoes of that argument make her an object of enduring interest, as does the landmark concept she contributed to the world's moral lexicon: "the banality of evil."

It's difficult to imagine a director better equipped to handle such a life than Margaretha von Trotta. Born in Berlin during World War II, von Trotta has repeatedly focused her work on the political and intellectual efforts of women in a world dominated by men, including *Rosenstrasse* (2003), which chronicled the wartime struggle of German women married to Jewish husbands. *Hannah Arendt* is the final installment of the director's trilogy of feminist historical biopics—all with Barbara Sukowa in the lead roles—beginning with *Rosa Luxemburg* (1986) and continuing with *Vision*, a 2009 study of Hildegard of Bingen, the twelfth-century Benedictine nun renowned for her polymath aptitudes in science, music, medicine, and philosophy.

*Hannah Arendt* offers a nostalgic immersion in the close-knit world of postwar New York intellectuals, a romance of the combative *jeu d'esprit*

and the sometimes antagonistic intimacy that united such diverse figures as Mary McCarthy (Janet McTeer), with whom Arendt taught at Bard College, and Hans Jonas (Ulrich Noethen), her fellow German Jew who, like her, studied with Heidegger—and who, unlike her, bitterly renounced him for his Nazi enthusiasms. The film ably recapitulates the furor Arendt excited by insisting, in her reports from the trial in Israel, on three points: first, that Eichmann was not the kind of monster one might have expected but rather something new, a functionary whose evil was bureaucratic in nature; second, that the trial itself, insofar as it purported to scrutinize and judge one individual's actions, was a travesty; and third, that during the Holocaust Jews collaborated in varying degrees with Nazis like Eichmann, worsening their collective fate. It was for these assertions, and for a certain intellectual hauteur with which she made them, that even such close friends as Hans Jonas eventually repudiated her.

Not much happens in *Hannah Arendt* other than the Eichmann trial, which von Trotta awkwardly weaves in using film footage of the event from TV and newsreels, and viewers may justly wonder whether Arendt's actual lived life makes much sense as a dramatic subject. How to dramatize the life of an intellectual and writer? "Thinking is a lonely business," Heidegger (Klaus Pohl) intones to the young Arendt; and it's a highly uncinematic one too. Sukowa struggles mightily to convey Arendt's mix of thrusting forensic swordsmanship, lively intellect, and superior ironic tone, and succeeds in winning from us a measure of sympathy. Shunned by a dying lifelong friend who accuses her of betraying the Jewish cause, and specifically of feeling no love for the Jewish people, Arendt can only stammer out an argument about the personal na-

ture of human affection. "Why should I love the Jews?" she asks as the dying friend literally turns his back. "I love my friends—this is the only kind of love I am capable of."

Such moving moments notwithstanding, the film is remarkably static, content to chronicle these events rather than explore and dramatize them. I find it hard to know what the intended audience is. Viewers unfamiliar with the story of Arendt's controversial writing will find the film impossible to follow; those who *are* familiar with the story may find it superfluous. Von Trotta fails to find a way to explore Arendt inwardly, or to make more of the Heidegger romance than a few perfunctory flashbacks, or to settle really on any goal other than establishing a point-by-point timeline of what happened.

But what *did* happen? A public intellectual wrote a series of articles that triggered enormous controversy. In its attempt to dramatize this, von Trotta gives us group shots of professors sitting around living rooms smoking cigarettes and vehemently arguing, followed by somber studies of Arendt lying on a daybed, smoking cigarettes and thinking. (The number of cigarettes consumed in this film beggars belief, and one witty critic commented that the film's caricature of early 1960s New York "makes *Mad Men* look like a work of neorealism.") At such ponderous moments it is hard to resist musing along in your own silent script: *Hmmm, let's see...the culpability of wickedness?...No...the fatality of violence? Ah...the banality of evil! Jawohl!* Such mischievous temptations show how difficult it is to dedicate an entire movie to the genesis of a phrase.

**I**f you had to choose a people whose ethic of fierce personal fearlessness, freedom from police control, and proximity to cargo-laden ocean ship-

ping lanes would most conduce to success as modern pirates, Somalis would have to be high on your list. For decades the Somali highwaymen known as *shiftas* have made deep raids into Kenya, and caravans of Somali trucks careen through the East African deserts, smuggling loads of the amphetamine-like chewable leaves known as *khat*. Such recklessness has been sharpened by years of murderous civil war, mass poverty, and the near-complete lack of centralized authority. That the dumping of toxic waste by international companies has fouled traditional Somali fishing grounds only adds to the problem. Conditions for piracy were ripe well before the first boat was waylaid.

The young Danish filmmaker Tobias Lindholm has made a closely detailed study of Somali piracy, told from the victims' point of view. His taut, unnerving film portrays the travails of the *Rozen*, a small cargo ship set upon in the Indian Ocean by a team of machine-gun toting Somalis. The film's generic title—not *The Hijacking* but *A Hijacking*—suggests an illustrative case history, an incident among many such. And in fact East African piracy is a much bigger problem than the casual news follower understands. The BBC last year estimated that four thousand Somali pirates are active in the waters off East Africa; a hundred hijackings have occurred in the past three years, and in 2011 alone the pirates extorted \$146 million from ship owners.

Lindholm, who in addition to directing wrote the script (he also co-wrote the current, highly praised Mads Mikkelsen film, *The Hunt*), keeps a tight focus on two locales: the interior of the cargo ship, where three Danish and four international crewmembers struggle to maintain sanity amid the increasing toil and peril of their captivity; and the boardroom of the company in Copenhagen, where the firm's directors and CEO, Peter (Søren Malling), conduct harrowing telephone negotiations with the pirates' hired negotiator, a mysterious figure named Omar (Abdihakim Asgar). Central to the film's structure, and to its claustrophobic effect, is an unexpected symmetry of cap-

tivity, with the company executives almost as wholly trapped within their offices as the crew members are in the ship. We suffer with Peter, a corporate superman of steely disposition who bit by bit is undone as his hired antiterrorism advisor counsels him to take a hard line on the negotiations. Haggling over the ransom money for weeks and ultimately months, he knows that he is putting his crewmembers' lives at risk; the responsibility exacts a steep psychic toll, so that we begin to fear for his sanity.

*A Hijacking* captures the nuances and paradoxes of Stockholm Syndrome. In one memorable scene, captors and captives, united by hunger, join to catch a big fish, then share a drunken feast, culminating in high fives and a boozy songfest; the next morning, however, it is as if the previous night's camaraderie never happened, and the captives once again fear for their lives, the pirates menacing them with weapons.

The film bears comparison with *Black Hawk Down*, which followed our botched 1993 mission in Somalia. The two films share an atmosphere of unremitting tension. But where the Ridley Scott/Jerry Bruckheimer film put our brave soldiers at the mercy of howling black mobs and warlord villains straight out of James Bond, *A Hijacking* insists on a moral gray zone. While there is no attempt to humanize the pirates or to present their point of view—none of them speaks English—Lindholm abjures judgment and sets out instead simply to portray the ordeal as realistically as possible. What we watch for ninety minutes is a series of rational, albeit extremely precarious, negotiations. Both sides are conducting business, and their negotiations proceed with the usual ritual niceties—"Hello, Peter," says Omar over the phone, "how are you this morning?"

To us in our never-ending global war on terror, *A Hijacking* offers ambiguous lessons and a shaky, curious reassurance, suggesting that at least sometimes we are dealing not with fathomless evil, but with real people asserting tangible interests. And we can do business with people who do business. ■

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Celia Wren

# Broken Compasses

'BROADCHURCH'

If W. H. Auden were alive today, he'd be setting his TiVo to catch *Broadchurch*, the atmospheric, artfully methodical detective drama airing on BBC America August 7 through October 2. A hit in the UK, where it was the most Tweeted-about TV program ever, this eight-episode series is not edgy, innovative or—like so many mystery hopefuls these days—Scandinavian. Instead, it is a rounded-out version of a classic British whodunit—the kind of reassuringly formulaic entertainment that Auden paid tribute to in his 1948 essay “The Guilty Vicarage.”

In that piece, Auden argued that detective stories allow readers who suffer from a keen sense of sinfulness to fantasize about “being restored to the Garden of Eden.” Auden thought the best mysteries facilitated this virtual restoration by adhering to certain conventions: their narratives unfurled within a subsection of society, for instance, and their characters included many figures who initially appeared innocent, only to reveal varieties of guilt.

These and other vintage sleuth tropes turn up in *Broadchurch*, which initially feels a tad boilerplate, but grows increasingly suspenseful and engrossing, thanks to canny pacing, smart plotting, and vivid performances. Auden, who preferred whodunits set in rural England, would delight in the show's picturesque milieu: a seaside town, resplendent with quaint harbor vistas, scenic lanes, and awe-inspiring beaches.

While spinning its mystery tale, *Broadchurch* paints a careful portrait of this eponymous town—a close-knit hamlet where newsworthy events are rare. When an eleven-year-old boy named Danny is murdered, and national journalists descend, the residents—including the amiable Detective Sergeant Ellie Miller (Olivia Colman), of the local police force—are stunned. Miller



Arthur Darvill, Olivia Colman, and David Tennant in *Broadchurch*

is dismayed to find herself working on the case with a surly newcomer, Detective Inspector Alec Hardy (David Tennant), who has no time for sentiment or social niceties, and who sees guilt at every turn. Believing her neighbors to be good, upright folk, Miller abhors her colleague's cynicism. “Most people have a moral compass!” she exclaims to Hardy at one point, after he shares a suspicion. “Compasses break!” he replies.

As Miller and Hardy investigate, and an eager cub reporter at the local paper (Jonathan Bailey) does his own research, alibis crack and secret sins tumble into the open. The local vicar, Rev. Paul Coates (Arthur Darvill), has something to hide. So does Danny's father (Andrew Buchan). So, for that matter, does Hardy, who failed spectacularly at his last big murder case, and so has all the more to prove with this one.

Refreshingly, *Broadchurch* doesn't draw much on the hard-boiled-mystery tradition, as so many modern mysteries do: the characters have flaws, but the world they live in isn't thoroughly tawdry and corrupt, and Miller and Hardy don't feel the need to bend rules in order to achieve justice. The show does stray from classic whodunit territory in focusing frequently on the grief of Danny's mother, Beth (Jodie Whittaker): in one heart-wrenching scene, we see her trying to distract herself by grocery shopping, only to find her eyes straying to Danny's favorite cereal. In another, we see her jogging desperately along the beach, as if trying to outrun her agony.

Such scenes, with their emphasis on family heartbreak, recall comparable scenes in the first two seasons of AMC's *The Killing*, an exasperating hardboiled-mystery series based on a Danish TV show. Like the family in those seasons of *The Killing* (I gave up before season three), the parents in the less lugubrious *Broadchurch* are uneasy when religion is offered as possible consolation. When the vicar suggests that Danny may be in heaven with God, Beth flings back a bitter challenge: “Tell God: Give me a signal! Something. Let me know he's OK!” The priest is at a loss.

Like Beth, Inspector Hardy is anguished, beset by personal afflictions that reveal themselves as the series progresses. Indeed, in Hardy—plodding gloomy and unshaven through the idyllic landscape around *Broadchurch*—you can see the mythic underpinnings of the malaise-racked gumshoe as literary trope. From the cocaine-addicted Sherlock Holmes to Lord Peter Wimsey—wracked by remorse when he has helped send a man to the gallows—to Henning Mankell's brooding, unhealthy investigator Kurt Wallander, to Hardy and even Miller, the detective is on some level a magical priest-king figure, who suffers for the community. The traits that make a good sleuth are traits that invite unhappiness.

“The job of detective is to restore the state of grace in which the aesthetic and the ethical are as one,” Auden wrote. It's a job that, often, requires sweat and pain. ■



George Scialabba

# A Scourge of Secularism

## Is God Happy?

### Selected Essays

Leszek Kolakowski

Basic Books, \$28.99, 327 pp.

**I**gnazio Silone, the novelist and contributor to *The God That Failed* (1949), a hugely influential collection of essays by ex-Communist intellectuals, prophesied that the political future would be fought out between Communists and former Communists, since the latter alone could genuinely understand the Communist threat. Arthur Koestler, another novelist and contributor to *The God That Failed*, said something similar. They and many other ex-Communists—Whittaker Chambers was the most extreme example—took an apocalyptic view: the Cold War was a struggle to the death between two antithetical ideas, two historical and civilizational principles.

In the event, Communism went out not with a bang but a whimper; replacing it, capitalism came in with a bang but has since elicited much whimpering among its unfortunate beneficiaries in Russia, China, and Eastern Europe. It looks, in retrospect, as though Communism was simply forced industrialization by a nationalist bureaucratic elite rather than by foreign investors and their local clients, and that the Soviet Empire was largely a way of preventing yet another near-catastrophic invasion of Russia across the flat expanse of Central and Eastern Europe. What did any of that have to do with socialism? In a famous remark, Lenin defined Communism as “soviets plus electricity.” That was shortly before he abolished the soviets. It would perhaps be equally accurate to define Stalinism as “Tsarism plus electricity.” A drunken Leonid Brezhnev,

when asked in 1968 whether the invasion of Czechoslovakia was really compatible with socialist morality, blurted out: “Don’t talk to me about socialism. What we have, we keep.” In vino veritas.

But of course the Communists talked endlessly about socialism to their imprisoned populations. How else could they pretend to justify a harsh one-party dictatorship and an inefficient centrally controlled economy? Most pre-World War I socialists, from Marx and Engels to William Morris, Jean Jaurès, and George Bernard Shaw, said nothing about the revolutionary seizure of power by a self-appointed vanguard. On the contrary, they all preached evolutionary social transformation, mass working-class parties and unions competing for power through elections, strikes, boycotts, and other nonviolent means, and the gradual diffusion of enlightenment and solidarity. If the ruling class used fraud and violence to thwart a democratic transition to socialism—as it undoubtedly will, if that prospect ever

threatens—then they might legitimately be resisted and suppressed. (This is the meaning of that perennial bogeyman, the “dictatorship of the proletariat.”) But “democratic socialism” would have seemed a tautology to the classical socialists and “authoritarian socialism” a solecism. To them, “socialism” simply meant democratic control of a society’s core productive activities.

Still, what a word means in any epoch is an empirical question. If all Communists and the great majority of anti-Communists have agreed for nearly a hundred years to call bureaucratic, one-party dictatorships in underdeveloped countries “socialism,” then that is, alas, what the word now means. On the one hand, many Communists were eager to borrow the prestige of a widely cherished ideal; on the other, many anti-Communists were eager to besmirch that ideal by blaming it for the undeniable horrors perpetrated by the Communists. Many others on both sides were no doubt sincerely ignorant of the word’s



Leszek Kolakowski in 1971

original meaning. I always thought that the scrupulous (and sporting) thing for my fellow anti-Communists to call the sad and malignant entity behind the Iron Curtain would have been “pseudo-socialism.” But it never caught on.

Some of Communism’s fiercest critics did indeed insist that it was a betrayal of socialism. Orwell emphatically reaffirmed after publishing *1984* that he was a socialist. Silone and Victor Serge were among the better-known ex-Communists who continued to espouse traditional, non-Bolshevik socialism. (Some of the lesser-known ones were Karl Korsch, Paul Mattick, and Anton Pannekoek.) Most ex-Communist intellectuals, however, regarded Communism as a logical development of socialism rather than a hijacking or perversion of it. Whether one agrees with them or thinks they should have known better, it is at any rate easy to understand why they might have preferred to see themselves as victims of a grand tragedy rather than a wretched travesty.

**A**mong those who have sought to trace twentieth-century totalitarianism back to nineteenth-century socialism and beyond, Leszek Kolakowski is one of the most eminent. He was born in Poland in 1927 and came of age in that epicenter of the mid-twentieth-century European cyclone. After the war he joined the Polish Communist Party and, because of his superior intelligence, was sent to Moscow for ideological grooming. The experience sowed grave doubts in the young Kolakowski’s mind. He entered on a career as an academic philosopher but frequently—especially after the Hungarian uprising of 1956, also crushed by the USSR—wrote sharp-edged essays critical of Marxism and pseudo-socialism that attracted the authorities’ increasing displeasure, as well as the admiration of many in the West. He was expelled from the Party in 1966 and from Warsaw University in 1968, whereupon he went into exile. He had a distinguished academic career in Berlin, Berkeley, Chicago, and Oxford, received many prizes (including the Erasmus

and Jerusalem Prizes and a MacArthur Fellowship), and died in 2009.

The sort of thing that got up the nose of the Polish authorities was “What Is Socialism?” (1956, reprinted in *Is God Happy?*), a satirical broadside that appeared on—and just as quickly disappeared from—bulletin boards around Warsaw University after the student journal that published it was shut down. The essay starts out by asking, innocently, what socialism is not. It never finishes answering. One feature after another of really-existing pseudo-socialism is pitilessly catalogued: “a society in which someone who has committed no crime sits at home waiting for the police”; “a society in which some people are unhappy because they say what they think and others are unhappy because they do not”; “a society in which some people are better off because they do not think at all...”; and so on and on, with grim humor, through many pages. Finally, socialism is defined: “Socialism is just a really wonderful thing.” It is, in my view, the best thing Kolakowski ever wrote, at any rate about politics.

The rest of Kolakowski’s extensive political writings can be summed up in not very many words. Utopias are dangerous folly. Perfect harmony is unattainable. “Socialism” simply means that the state controls the economy—never mind who controls the state—and invariably results in less freedom and efficiency than capitalism. Marx was a clever man, but Marxism is a tissue of sophistries, from surplus-value to historical materialism. Talk of Progress or Necessity is merely a way for ideologues to justify brutality and tyranny. Intellectuals, at least radical ones, should be distrusted. It is a familiar message: Cold War liberalism, ably formulated, with erudition and wit. If the spirit of Marxism-Leninism ever again burns bright, Kolakowski’s writings will no doubt serve as a valuable corrective.

Do they, however, have anything to say to twenty-first-century America? Not much, I think. Marxism-Leninism struck no sparks in the United States or Britain, few in Western Europe or South America (and then only among

a minority of intellectuals for a few decades), none in Japan. For at least twenty years, it has been deader than Arianism or Albigensianism everywhere in the world. Anti-Communism and worship of the “free” market has been America’s civic religion for nearly a hundred years. The word “utopia” has scarcely been pronounced (except derisively) in the public square in all that time, and the only fantasies of perfect harmony that have had any effect on public policy are those of neoclassical economists. Since the election of Ronald Reagan in 1980, the United States has seen the rampant financialization of the economy, the pulverizing of organized labor, a drastic increase in economic inequality, the capture by business of the regulatory system, and the growth of the national-security state. Internationally, after decades of violent U.S. intervention in Indochina, the Middle East, and Latin America, a corrupt and predatory investor class easily dominates an impoverished, insecure workforce. Global capitalism has, to paraphrase Tacitus, created a wasteland for hundreds of millions of the displaced and exploited—though it has done quite well by millions of the enterprising or well-connected—and called it freedom.

No doubt Kolakowski would have more vigorously deplored all this—he did mention it once or twice—if he had not been forced to spend his formative years bravely and eloquently combating pseudo-socialist totalitarianism. (Surely it did not help that he spent his first few years of exile in Berlin and Berkeley in the late 1960s and early ’70s, witnessing the worst excesses of the expiring New Left.) It is not easy in mid-life to change gears, alter emphases, play a new tune, especially when one suddenly finds oneself a celebrity. In a famous exchange, the historian E. P. Thompson tried, with enormous tact and discrimination, to suggest to Kolakowski that he might, in his changed circumstances, occasionally turn his attention to a different set of problems, the ones that marginal and beleaguered anti-capitalist and anti-Stalinist Western leftists like Thompson found most urgent. But Kolakowski

simply assumed that his previous arguments had not been absorbed, and repeated them. A missed opportunity.

**K**olakowski was not, in any case, solely or even primarily a political critic; he was a philosopher and a historian of philosophy. He wrote books on seventeenth-century philosophy, Bergson, Husserl, and positivism, among many others, including several on the philosophy of religion, such as *The Presence of Myth*, *God Owes Us Nothing*, *Religion: If There Is No God...*, and the middle section of *Is God Happy?*

The Enlightenment plays the same role in Kolakowski's philosophical writings as Marxism does in his political writings. It's where modernity went astray, where virtue took a wrong turn. Marxism distorted the quest for equality and social justice into utopian dogmatism; the Enlightenment distorted the promise of science and the rejection of superstition into relativistic rationalism. And just as Kolakowski's positive political beliefs were hard to pin down (the closest he came was in an essay called "How To Be a Conservative-Liberal-Socialist"), so were his positive religious beliefs. For a long time he styled himself an "inconsistent atheist," but near the end of his life he resolved the inconsistency by returning to the Catholic Church.

Perhaps the philosophical equivalent of "conservative-liberal-socialist" is "skeptical traditionalist." At any rate, that's a good description of Kolakowski's religious/philosophical stance until his (re-)conversion. He was not (at least in his writing) a God-haunted man so much as a scourge of secularism; not so much avid to penetrate the mysteries as keen to debunk their debunkers. He does not have much comfort for afflicted believers, but he rejoices in afflicting comfortable unbelievers.

One tradition of Christian apologetics, from Pascal to Benedict XVI, emphasized the social and psychological indispensability of belief. It is summed up in a sentence of Dostoevsky's: "If there is no God, everything is permitted." (Significantly, Kolakowski chose

this sentence as the subtitle of his book *Religion*.) Unless God exists, there is no certainty of ultimate justice, no reliable criterion of good and evil, no firm ground of truth, no transcendent meaning of life. This was Kolakowski's approach, more or less. He writes:

Human dignity is not to be validated within a naturalistic concept of man. The absence of God spells the ruin of man in the sense that it demolishes or robs of meaning everything we think of as the essence of being human: the quest for truth, the distinction of good and evil, the claim to dignity, the claim to creating something that withstands the indifferent destructiveness of time.

But, as Kolakowski recognizes, even if this is true, it *proves* nothing. Perhaps human dignity cannot be validated, only affirmed; and perhaps the essence of being human must be reconceived, or the notion of "essence" redefined. Kolakowski appeals to the "ontic condition of humanity" and the "moral constitution of Being" to vindicate natural law. Do these resonant phrases amount to anything more than "That's just the way things are"? I'm not sure they do.

Kolakowski was an admirable spokesman for the *philosophia perennis*, the common sense of (European) humankind since, roughly speaking, Homer. We feel free and responsible. Evil and conflict are in the nature of things, including ourselves. We sense mysteries in the depths. Some of our intuitions are so strong that they *must* be eternal truths. He was baptized into an ideology that aggressively denied all these things. Skeptic that he was, he worked himself free of that ideology and also helped free a great many others. But as he continually reminded rationalists, the skeptical impulse can't be sustained indefinitely or directed toward everything simultaneously. We need traditions too. Kolakowski struck his own distinctive balance, illuminating the ultimate questions even for those of us he could not persuade. ■

**George Scialabba** is the author of *What Are Intellectuals Good For?*, *The Modern Predicament*, and *For the Republic*.



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Luke Timothy Johnson

# Prosecuting the Persecuted

## The Myth of Persecution How Early Christians Invented a Story of Martyrdom

Candida Moss  
HarperOne, \$25.99, 320 pp.

**H**istorians of Christianity routinely speak of the period from the first century to the time of Constantine as “the age of martyrdom” or “the age of persecution.” Though these are useful designations, signaling a fundamental change in Christian fortunes—before Constantine, Christians were persecuted and sometimes martyred; after him, they enjoyed a privileged status—no one truly views the church’s first centuries as a time of unrelieved terror. Even the fourth-century Christian apologist Lactantius, who could barely suppress his glee over the death of persecutors (*de Morte Persecutorum*), recognized that Roman persecutions, while violent, were limited and sporadic.

Candida Moss, however, discerns in such formulations an insidious and pernicious myth of martyrdom, “based in a series of inaccurate beliefs about Christian history,” which erroneously posits a Roman Empire constantly in pursuit of believers. This myth, she says, holds that “only Christians are martyred, that being a Christian means being persecuted, and that the experience of persecution is a sign both that one is right and that one is good.” In her view, its “dangerous legacy” is the prevalence

among Christians today of a persecution complex—an outlook that in turn fuels a willingness to demonize opponents and to resist any form of political compromise. Moss finds the rhetoric of martyrdom and persecution among contemporary U.S. bishops who actively oppose abortion, and among conservative political commentators like Glenn Beck, Ann Coulter, Newt Gingrich, and Rush Limbaugh. Exposing how this legacy “poisons the well of public discourse,” Moss makes no attempt to hide her allegiances. “Heaven help us,” she declares, “if this worldview, which pervades political commentary and activism as well as American religion, wins the day.”

A professor in the department of theology at the University of Notre Dame,

Moss has published several scholarly monographs on martyrdom in the early church. But this book clearly aims to be read beyond the academy and to have an impact on contemporary political and religious discourse. *The Myth of Persecution* places Moss squarely in the ranks of historian-physicians who seek to heal what they perceive to be the ills of present-day Christianity through the therapy of revisionist history.

Like others working in this fashion, she blames a bishop—namely, the fourth-century ecclesiastical historian, Eusebius of Caesarea—for shaping a Christian consciousness that she regards as toxic. “Eusebius uses the history of the martyrs as a means of drawing battle lines for the established church orthodoxy against heresy,” Moss writes.

What we think is the truth about persecuted martyrs from the early church is in fact the retrojection of issues about orthodoxy from the fourth century when the church was more powerful and more centralized. And the church in the centuries that followed bought this retrojection hook, line, and sinker.”

In a tone that can only be called prosecutorial, Moss goes about dismantling what she characterizes as the myth of martyrdom and the invention of the story of persecution. She argues, fairly enough, that Christians were not the first to have martyrs: from Socrates forward, Greeks and Romans told stories of noble deaths, and these traditions are found among Jews as well (notably in the account of the Maccabees). Moss shows how Christian accounts—beginning with Luke’s version of Jesus’ passion—employed elements of the noble-death traditions. Where a more forgiving observer might find such cultural appropriation benign, Moss sees distortion or even corrup-



Ceiling fresco of St. Sebastian, Gebhard Fugel, 1892



tion. Concerning Jesus' death in Luke's Gospel, she declares that

the effects of Luke's heavy-handed editorial work have been devastating for our knowledge of what actually happened at the time. The historical facts of what occurred during Jesus's last days were overwritten with a theology of noble death and martyrdom, but this theology wasn't originally Christian; it drew on widely held ancient beliefs about what constituted the good death.

The notion that theological interpretation disables the discovery of historical fact dominates the next part of Moss's argument, "Inventing Martyrs in Early Christianity." Beginning with some martyr accounts that are clearly legendary, she subjects even so-called authentic accounts, such as *The Martyrdom of Polycarp* and *The Passion of Perpetua and Felicity*, to withering criticism. Moss is relentless; any trace of literary influence, any historical implausibility, any internal inconsistency in such accounts leads to the conclusion that they are not historically reliable. Here is the heart of her argument: "If we cannot trust that these stories preserve the events precisely, then we cannot trust that any martyrdom stories do." Sadly, in Moss's accounting, none measures up: "none of the early Christian martyrdom stories are completely historically accurate." As a result, she concludes, "we cannot be certain of what the martyrs themselves thought and said; we can only get at what their biographers want us to think"—and this matters, she insists, because "people are interested in saints...because of what they said and did."

**H**earing in such statements a loud echo of the quest for the historical Jesus, one might ask whether, in the case of those who gave their lives for the faith, "what they said and did"—and not the fact that they died as witnesses—is really the heart of the matter. It's worth pointing out as well that Moss's logic is skewed. Demonstrating the imprecision or inadequacy of a literary account does not thereby demonstrate the inauthenticity, historically, of

the realities that account takes up. How convincing, for instance, are the Holocaust deniers who disassemble the *Diary of Anne Frank* in a tendentious attempt to discredit the Shoah? Do the discordant lucubrations of Oliver Stone make us doubt that John F. Kennedy died unintentionally in Dallas? Even Moss allows that "some people were cruelly tortured and brutally executed for reasons that strike us as profoundly unjust."

Turning to the question of exactly how extensively persecuted early Christians truly were, Moss competently covers familiar ground, emphasizing the sporadic character of Roman persecutions before the time of Diocletian, and carefully distinguishing between persecution ("we are out to get you on any terms") and prosecution ("we are out to get you if you break laws"). Asserting that the Romans harassed Christians less for their beliefs than because they were stubborn and sometimes subversive, she concludes that "things were much less serious than the shrill

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rhetoric of early Christians suggests." In fact, "the Romans rarely persecuted the Christians, and when they did, they had logical reasons that made sense to any ancient Roman."

The prosecution—Moss's, not the Romans'—concludes with her analysis of "myths about martyrs." For readers who might retain some lingering admiration for the martyrs, Moss deconstructs what she calls our "Sunday School" understanding of them, arguing that many martyrs were suicidal and sought violent death, that some were themselves violent, and that others used aggressive and violent language toward their opponents, "replete with fantasies of vengeful justice." These are not "meek and forgiving saints," but "quite literally, soldiers for Christ." Their apocalyptic insistence that their persecution was sponsored by demons, Moss argues, informs the polarizing rhetoric she finds so grievous in contemporary religious and political discourse.

Clearly Moss's study of martyrs has

brought her to dislike them, and she wants us to feel the same—and to that end she spares little by way of disparagement. But the most discouraging aspect of this effort—as with so many other history-as-therapy exercises—is its fundamental irrelevance to the problem in contemporary discourse that she identifies. Certainly, one can agree with her that political polarization, apocalyptic forecasts, and charges of demon-possession are not usually helpful and indeed often injurious. But surely Moss overstates the matter when she blames the “myth of martyrdom” and the “invention of persecution” for such symptoms. One doubts that Newt and Rush are so profoundly shaped by the myths of Christian origins. Moss’s account of the “Sunday School” myth of martyrdom is itself a construction that serves as a straw figure for her argument. The language of demonization within Christianity, moreover, is demonstrably more pervasive and persistent than either the phenomenon of martyrdom or the fact of persecution (see “Powers and Principalities,” October 7, 2011).

Finally, for all its evident eagerness to address a readership beyond the academy, *The Myth of Martyrdom* bears the unmistakable stamp of contemporary academic values and commitments. The academy Candida Moss inhabits is a safe, well-lighted place that encourages the fantasy that other people are always reasonable; that persecution of the innocent seldom happens; that the willingness to die for one’s convictions is a form of pathology; that Rush Limbaugh is responsible for political dysfunction in America; and, most of all, that the history of Christianity—especially as manifested in its saints—is a long embarrassment from which reasonable Christians would gratefully be freed. ■

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*J. Patrick Hornbeck II*

## The Innocence Project

### The War on Heresy

R. I. Moore

Belknap/Harvard, \$35, 378 pp.

Medieval heresy is back in fashion. From the conspiracy theories of popular novels to the *Pays Cathare* tourist billboards in the south of France, the men and women who suffered ecclesiastical aggression in defense of their supposedly heterodox beliefs have recently been lionized as never before.

Yet most of what we think we know about these heretics—their beliefs, their practices, even what they were called—is wrong, argues the celebrated British historian R. I. Moore. Few scholars are better positioned to make such a judgment. It was Moore, after all, in his previous works *The Origins of European Dissent* (1977) and *The Formation of a Persecuting Society* (1987), who helped construct what has become the standard narrative of the “rise” of heresy in eleventh- and twelfth-century Europe. Now, forthrightly calling that earlier scholarship “fatally flawed,” Moore has set out to reread the documents that shaped the Western church’s engagement with heresy. His findings cast doubt on long-held assumptions

about heresy, its practitioners, and the church’s response to it, even as they dissect the complex political, social, and religious interactions that formed those assumptions.

In particular, *The War on Heresy* underscores the disparity between the widespread fear heresy provoked among medieval churchmen and the relative infrequency with which heretics were actually persecuted and punished. Moore begins his account in 1022, when more than a dozen people were burned for heresy in Orléans, on the orders of King Robert II. Belying the popular view of such persecutions as part and parcel of medieval life, Moore shows that the executions represented the first time in nearly *six hundred* years that Christians had employed the death penalty for heresy. Even by 1163, he notes, when five “Cathar” heretics were burned in Cologne, it “was by no means a commonplace event.”

Such observations typify Moore’s way of undermining conventional wisdom. Traditionally, historians have asked why heretics became numerous early in the second millennium of Christianity, and even recent histories divide heretics into categories that would have been familiar to the inquisitors of the Middle Ages: Cathars, who believed in dual, opposed



A stone plaque in Sant Mateu, Spain, commemorating Guilhem Belibasta, said to have been the last “Cathar Perfect”

PHOTO: LLAPISERA

gods and abstained from sex and meat; Waldensians, who adopted a life of extreme poverty and abjured ecclesiastical obedience; heretics of the Free Spirit, who believed one could attain a state of spiritual perfection; and so forth.

Moore reveals these questions and categories to be the products of an inquisitorial mindset whose practitioners, trained in the writings of the church fathers and in scholastic theology, operated with fundamentally flawed assumptions. For instance, in the 1240s, inquisitors in the south of France routinely asked witnesses whether they had ever “adored” heretics—“looking for evidence,” Moore writes, “of a ritual of which they had read in their scholastic texts, called the *melioramentum*,” believed to signify allegiance between a heretic and a disciple. Yet, as Moore observes, the formal bow that the inquisitors called the *melioramentum* was merely part of the elaborate system of *cortezia*, or politeness, that Provençal society expected of its members. Likewise, inquisitors spoke of what they called “perfected” heretics, peripatetic leaders who included heretical “bishops” and “elders.” But these too were categories that church officials themselves had developed, in an attempt to reconcile what they discovered in their interrogations with what their textbooks told them heretics must be like.

Texts are at the heart of Moore’s study, and he reads them carefully, exploring the complex ways they significantly influenced the identification, trial, and punishment of heresy suspects. For example, Moore traces the characterizations of Dietrich of Deutz, a chronicler in Cologne who identified the persons burned there in 1163 as “Catafrigiens or Cathars,” back to Eckbert of Schönau, whose *Sermons against the Cathars* provided a template for many contemporary writers. But Eckbert himself was relying on another writer, Eberwin of Steinfeld, whose descriptions of heretics depended in turn on Augustine and his extensive writings against the Manichees six centuries earlier. Thus Dietrich—not to mention the modern historians who have relied on him and

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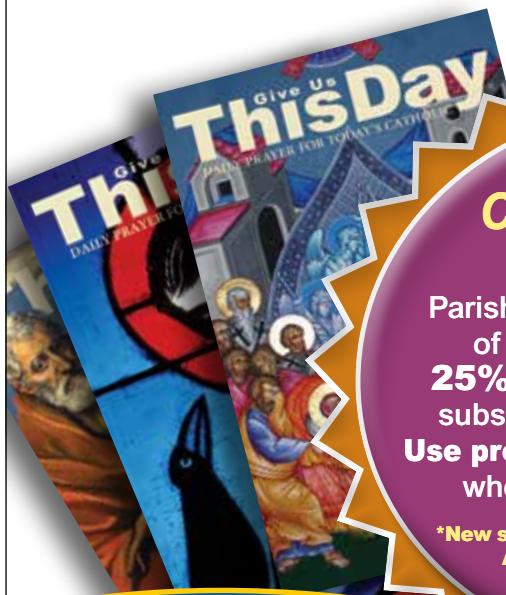
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others like him—was at best the fourth participant in a centuries-long game of “telephone,” at each stage of which various political and theological influences could distort the facts of a case.

Such confusions all but ensure that we will never know exactly what the heretics of the Middle Ages thought about God, faith, and the church. Indeed in some cases, Moore makes clear, heresy accusations were hardly about heresy at all. In medieval Europe, “conditions were thoroughly conducive to the circulation and acceptance of all manner of religious ideas,” while church leaders’ capacity “of controlling or correcting them, on the other hand, was limited.” Many of the instances where heterodox religious ideas drew active persecution turn out to have involved external factors: rivalries between local lords, as in the case of the noble families of Toulouse and Béziers; resistance on the part of some clergy to church reform, such as clerical celibacy; and competing attempts to re-enact what medieval people called “the apostolic life.”

It seems obvious, in retrospect, that a history of medieval heresy should take up the ways in which medieval sources constructed both the concept and the categories of heresy. Yet Moore’s approach is historiographically a novel one. Many scholars, even recent ones, have assumed uncritically that if a medieval author wrote about “Cathars,” there must have been people who would have answered to that name and would have professed most of the beliefs of which Cathars were accused. Moore lays bare the fallacies behind such assumptions. *The War on Heresy* does more than represent the culmination of decades of study. In showing how certain trends in medieval Christianity were singled out for criticism, and how the full coercive power of the church came to be directed at them, it demonstrates that heresies have far more often been invented by the fearful than practiced by the accused. ■

**J. Patrick Hornbeck II** is assistant professor and associate chair of theology at Fordham University.

Francis C. Oakley

## We & They

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David Cannadine

Alfred A. Knopf, \$26.95, 352 pp.

Nature vs. nurture, evolution vs. revolution, universalism vs. particularism: the tug-and-pull of such polarities forms an enduring reality of public discourse. Over time the interpretative pendulum swings back and forth, so that yesterday’s winning argument finds itself contested anew today.

Historian David Cannadine’s stimulating and instructive book attests to the workings of this remorseless process. *The Undivided Past* signals its author’s intent to nudge the interpretative pendulum—stuck, he believes, at one particularistic pole—back in the direction of the other, more universalistic one. To this end he sets his sights on six human “solidarities” in which people across the ages have sought to ground their identities: religion, nationality, race, class, gender, and civilization. Cannadine argues that we are regrettably prone these days, in our public discourse and in the more recondite reaches of our academic exchanges, to focus obsessively on the differences these solidarities presuppose. Dwelling on what divides rather than on what unites, we view these solidarities

as “disparate and incommensurable,” and our public discourse accordingly is fraught with “Manichaean cultural dichotomies.” Ours appears to be a world, as President George W. Bush once described it, of “us versus them.”

As a consequence, Cannadine argues, “it has come to seem almost axiomatic that the best way to understand past worlds as well as present circumstances and our future prospects, is the workings and outcomes of latent or actual conflicts between antagonistic identities” based on nation, race, religion, class, gender, or civilization. It is this axiomatic understanding that Cannadine resolutely challenges in *The Undivided Past*. In setting the universal against the particular he makes the case “for taking a broader, more ecumenical, and even more optimistic view of human identities and relations,” one that “recognizes affinities and discerns conversations across these allegedly impermeable boundaries of identity.” Quoting poet Maya Angelou, Cannadine insists that “we are more alike, my friends, than we are unlike.”

Of course, Cannadine is far from the first to take this view of things—consider, for instance, the redemptive visions with which Martin Luther King Jr. and Nelson Mandela helped their oppressed countrymen, in King’s justly celebrated words, “hew out of the mountain of despair a precious stone of hope.” But Cannadine’s approach distinctively addresses the possibility of a redemptive universalism from a historical perspective, examining each of the chosen six solidarities across expanses of time. He is a skillful historian, and his effort proves bracingly deconstructive. For while each of his six solidarities has been put forth at one time or another as “the preeminent category of human identity,” under close historical scrutiny each turns out to have been fraught with problems.



Nelson Mandela, 2008



Of the six, Cannadine judges the notion that “civilizational groups” constitute “the highest form of human identity”—whether couched in older Spenglerian or Toynbee-esque terms, or in more recent and fashionable Huntingtonian ones—as “the most nebulous.” In comparison, nationalism might be expected to provide more stable footing for human identity, and indeed by the eve of World War I the nation-state had come to be regarded as “the final stage of human history,” inspiring obedience and veneration. Yet the very word “nationalism” dates back no further than the late eighteenth century, and most countries at the turn of the nineteenth and twentieth centuries, even if they called themselves “nations,” were in fact polyglot and multiethnic composite states—multi-national empires “disguised as nations,” Cannadine argues, which under close historical scrutiny emerge as nothing other than “imagined communities” based on “transient, provisional, made-up associations.”

Similar problems beset the other four solidarities. Marx hailed the demise of nationality and trumpeted class conflict as the dynamo driving world history; and during the mid-twentieth century class did indeed ride high, especially among intellectuals, as the supreme form of collective solidarity. But it never quite succeeded in overcoming the rival claim of religion—and was also undermined by the rising prominence of identities grounded in race and gender. These in turn have been destabilized by their own ambiguities and contradictions. As a result of World War II, Cannadine notes, “the notion that race was the most significant form of collective human identity...had been stripped of any claim to intellectual respectability.” A few decades later—and despite successive waves of feminism—the notion that gender could play that role foundered on the growing realization that the “binary opposition” of man and woman fails to comprehend “the multifaceted nature of gender identities.” And so on. The historical record Cannadine puts forth attests to the failure of all



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such “totalizing” efforts to define people by their membership in any one group. We are people who partake in multiple, sometimes conflicting solidarities; race, nationality, class, and gender each represent but one identity among several.

Well-organized, accessible and persuasive, *The Undivided Past* yields valuable lessons. One will assist those starting out on graduate studies in history, who all too often assume that currently fashionable interpretative schools are destined to endure. This book should demolish any such belief, encouraging young historians to keep their interpretative powder dry and alerting them that in pursuing their chosen calling they will perforce navigate a historiographic landscape strewn thick with the wreckage of earlier intellectual battles.

More important for the general reader, however, may be Cannadine’s hopeful insistence that “the history of humankind is as least as much about cooperation as it is about conflict.” We would do better to focus on what we

share than to obsess about our differences, he advises—to dwell on what joins us together rather than what puts us asunder. As Cannadine notes, even those writers and thinkers given to emphasizing group identities and antagonisms have not always been blind to the wisdom of a more inclusive perspective on the human condition. Cannadine cites the example of Rudyard Kipling, a writer who could speak unself-consciously about “the White Man’s burden” and “lesser breeds without the law”—yet who could also write, in a more generous and ecumenical vein, that

All good people agree,  
And all good people say,  
All nice people, like Us, are We  
And everyone else is They:  
But if you cross the sea,  
Instead of over the way,  
You may end (think of it!) by looking on We  
As only a sort of They! ■

**Francis C. Oakley** is a medieval historian and president emeritus of Williams College.

## Barry Gault

# Unsung

### "On My Way"

The Untold Story of Rouben Mamoulian, George Gershwin, and *Porgy and Bess*

Joseph Horowitz

W.W. Norton & Co., \$26.95, 256 pp.

Rouben Mamoulian (1897–1987) is forgotten. Joseph Horowitz believes he ought not to be. Immensely admired in the 1920s and '30s for his originality and creativity as a director of opera, theatre, and films, Mamoulian suffered the collapse of his career at its apex in 1959 when Sam Goldwyn replaced him with Otto Preminger as director of the movie version of *Porgy and Bess*. Mamoulian withdrew with his wife Azadia into their sprawling neoclassical house in Beverly Hills and died at the Motion Picture and Television Hospital in Los Angeles thirty-one years later. In "On My Way," Horowitz endeavors to rediscover the man and restore his reputation.

Born of Armenian parentage in Tbilisi, Georgia—then part of the Russian Empire—Mamoulian at age seven moved with his parents to Paris, where he lived for six years. French was just one of the six languages he mastered before graduating from Moscow University with a degree in criminal law. At the Moscow Art Theatre he met Stanislavsky and his disciple, Vakhtangov, under whom he studied acting, writing, and directing. By 1922, staying with his married sister in London, he was directing plays and operettas at the St. James Theatre so successfully that in 1923 George Eastman invited him to Rochester where Mamoulian organized the American Opera Company and headed the School of Drama within the Eastman School of Music.

Mamoulian's approach was idiosyncratic and arresting: the theater, he believed, should be *theatrical*. He preferred stylized rather than naturalistic staging.

Even in nonmusical productions he emphasized synchronized movement and rhythmic speech. Well suited to directing opera, he startled experienced actors when he appeared before them at the first rehearsal of a drama equipped with a whistle, megaphone, metronome, and baton! But he succeeded in conveying to his players his sense that all sound in the theater was a sort of music, all movement a dance. Audiences and critics found his plays stylized but artistically effective.

Certainly the directors of the Theatre Guild approved. Established in 1918 to sponsor "significant new works with limited commercial prospects," the Guild maintained a remarkably high standard. Their astute grasp of their mission is manifest in the selection of Mamoulian to direct the Broadway production of *Porgy*, the play Dorothy Heyward had fashioned from her husband's novel. Dubose Heyward, Horowitz tells us, had written a regional, naturalistic "cameo" with a bleak and nihilistic ending depicting the life of the descendants of slaves—popularly known as the Gullah—in Charleston, South Carolina. Dorothy provided a more redemptive conclusion, but, says Horowitz, it was Mamoulian who transformed the work.



Rouben Mamoulian, circa 1930

He "enriched the play with music and bonanzas of other rhythmic sound," making of it a spiritual and universal tale of ordeal and redemption. Opening in 1927 to generally enthusiastic reviews, *Porgy* ran for 367 performances, and was reprised on Broadway in 1929.

George Gershwin was quick to spot *Porgy* as promising material for the American opera he had long wanted to compose, and its musical potential was amplified in Mamoulian's staging. Gershwin bided his time while *Porgy* ran its course on Broadway, on tour, on Broadway again. He visited Charleston to get a first-hand sense of Gullah culture, worked steadily on the music, and solicited a libretto and lyrics from Dubose Heyward. He knew whom he wanted as his director. When Mamoulian responded to their invitation to visit, Gershwin and his brother Ira were ready. They played and sang the entire opera to him, totally losing their voices in the process.

Mamoulian's *Porgy and Bess* (1935) was suitably operatic. The garish shadowplay of the funeral, the prodigious crescendo of the hurricane, the synchronized movements and mass groupings of the cast in a series of pictorial tableaux couldn't have been more stylized. Critical response was mixed. It ran for 124 performances. Throughout the ensuing eight decades the production history of *Porgy and Bess* has reflected an unresolved dilemma already manifest in 1935: George Gershwin composed an opera; producers believe that audiences prefer (and budgets demand) a musical. Simplify the orchestration, replace the recitative with spoken dialogue, reduce the chorus, attenuate Bess's degradation, shorten everything, etc. The same arguments were still to be heard over Diane Paulus's recent production at Harvard's American Repertory Theater and on Broadway.

Mamoulian went on to direct for the Theatre Guild the original productions of *Oklahoma!* and *Carousel*, both reflecting his insistence that dance and dialogue must advance the story, and that music and speech must be integrated into a coherent rhythmic flow. His last

completed film, *Silk Stockings* (1957), is an adaptation of Cole Porter's musical based on the famous 1939 Lubitsch movie *Ninotchka*.

But readers who wish to get a sense of the Mamoulian style are best advised to take a look at his 1932 film *Love Me Tonight*. Starring Jeannette MacDonald and Maurice Chevalier (playing a princess named Jeannette and a tailor named Maurice), with songs by Lorenz Hart and Richard Rogers, it's a soufflé so light and so effortlessly digestible that one could easily overlook the masterful technique Mamoulian has deployed in every scene and song.

Mamoulian is well served in Horowitz's pages. The elements of his technique are meticulously explained, his large contribution to *Porgy and Bess* confirmed, and the man himself—slender and graceful in his well-cut suits, pince-nez, and spats—takes form in the mind's eye: polyglot and debonair, the embodiment of a vanished European high culture. About George Gershwin, "*On My Way*" provides no surprises. Reputation secure, genius acknowledged, he has never been forgotten. But Horowitz is unjust, in this reviewer's opinion, to Dubose Heyward, whom he dismisses as a "genteel southern regionalist" whose "detachment (from his characters) is both social and aesthetic." Recurrently confined to a sickbed as a child and young adult, a victim of polio and many other afflictions, Heyward surely identified with the crippled Porgy. His interest in Gullah culture was lifelong and not superficial. Langston Hughes said Heyward saw "with his white eyes, wonderful, poetic qualities in the inhabitants of Catfish Row that make them come alive." Of Heyward's contribution to *Porgy and Bess*, Stephen Sondheim has said, "Most of the lyrics of *Porgy*—and all of the distinguished ones—are by Heyward. I admire his theater songs for their deeply felt poetic style and their insight into character. It's a pity he didn't write any others. His work is sung, but he is unsung." ■

**Barry Gault** is a psychiatrist practicing in Newton, Massachusetts.

John Garvey

## A Moralist with an Ear

### The Tenth of December Stories

George Saunders  
Random House, \$26, 251 pp.

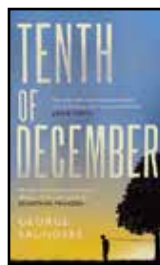
George Saunders loves writing, and his command of the vernacular and delight in what words can do is complete and totally satisfying. He goes from sentence to sentence with such joy in the process that you could miss the way he moves you in the course of a few pages from the fantasies of an adolescent girl, all light and funny, through the terror of an attempted abduction to the unexpected courage shown by her nerdy rescuer. This is all to be found in "Victory Lap," the first story in Saunders's latest collection, *The Tenth of December*. His work is so moving and, finally, so morally compelling that I'd like to *make* everyone read it, but that would go against his Buddhist and my Christian principles, so I can only beg you. He is an American treasure.

His sort of writing isn't to everyone's taste. Some have pigeonholed him as a writer of fantasy or speculative fiction, but much more is going on here. The *New York Times Magazine* called *The Tenth of December* "the best book you will read this year." Saunders has been praised by such friends and colleagues as Mary Karr and Tobias Wolff, who said Saunders is such a good man "that you'd hate to do anything that would disappoint him." He is considered a "writer's writer," but writers are plainly not the only people who enjoy his work, and though many fans want him to try his hand at a novel, Saunders has made it clear in interviews that he prefers the short-story form.

I can't think of another writer who can be at once so funny, moral, mov-

ing, even heartbreaking, and so fresh in the way he cracks open the ways we talk and think. Here is the adolescent protagonist of "Victory Lap":

What she found especially inspiring about Mrs. Dees was that, even though Mr. Dees was cheating on Mrs. Dees with the lady who ran the bowling alley, Mrs. Dees was still teaching the best course ever in Ethics, posing such questions as: Can goodness win? Or do good people always get shafted, evil being more reckless? That last bit seemed to be Mrs. Dees taking a shot at the bowling-alley gal. But seriously! Is life fun or scary? Are people good or bad? On the one hand, that clip of those gauntish pale bodies being steamrolled while fat German ladies looked on chomping gum. On the other hand, sometimes rural folks, even if their particular farms were on hills, stayed up late filling sandbags.



In "Puppy," a woman who suffered a difficult childhood takes her own children to buy a family pet. Outside the unkempt house of the seller she spots another child, chained like a dog and drinking from a bowl, and, understandably thinking the worst, allows her son a glimpse:

Josh joined her at the window. She let him look.

He should know that the world was not all lessons and iguanas and Nintendo. It was also this muddy simple boy tethered like an animal.

This comes from a woman who until now has been radiating a kind of willed joy.

In "Escape from Spiderhead," prisoners are given drugs to manipulate and control their behavior, emotions, and degrees of sexual arousal. They are a mixed lot, the narrator tells us:

We got some rough customers in here. I noted that Rogan had a tattoo of a rat on his



neck, a rat that had just been knifed and was crying. But even through its tears it was knifing a smaller rat, who just looked surprised.

The narrator then shares what he experiences after being drugged, in lines that may reflect Saunders's Buddhist view of human suffering and the need for compassion:

Basically what I was feeling was this: Every human being is born of man and woman. Every human, at birth, is, or at least has the potential to be, beloved of his/her mother/father. Thus every human is worthy of love. As I watched Heather suffer, a great tenderness suffused my body, a tenderness hard to distinguish from a sort of vast existential nausea; to wit, why are such beloved vessels made slaves to so much pain? Heather presented as a bundle of pain receptors. Heather's mind was fluid, and could be ruined (by pain, by sadness). Why? Why was she made this way? Why so fragile?

The last piece in the collection is the title story, and it echoes the first in its depiction of how a dying man who has more or less given up on everything is moved from near despair to save the life of a boy. I found these to be the best stories in the collection, though everything here is worth reading closely.

In 2006, *GQ* magazine sent Saunders to Nepal to report on a young boy who was thought by many of his neighbors to be a reincarnated Buddha. The resulting essay was willing to risk wonder, as all of Saunders's writing does. He avoids both new-age credulity and the secular unwillingness to consider the depths of reality we ordinarily ignore. Critics are right to note the strong moral current in Saunders's work, but if that were its primary strength it would not be much more impressive than Parson Weems's tale of young George Washington and the cherry tree. The main qualities of Saunders's writing are a superb ear for the way we really talk, a joy in language as a living thing, and compassion for us, as full of holes as we are. ■

**John Garvey** is a Commonweal columnist.

## LETTERS (continued from page 4)

never happen unless we begin imagining how it *could* happen, and that may mean thinking a bit more candidly about the fact that life in all its sanctity is built upon the melancholy foundation of innumerable life-serving deaths.

JACK MILES  
Irvine, Calif.

### WHOSE CHOICE?

Peter Steinfelds argues that a fetus must be fully protected legally from the moment of conception, yet he later notes that he could approve abortion up to eight weeks (when many women would not know they were pregnant). He does not explain that contradiction. I was also surprised when he questioned the pro-choice position that the fetus is a part of the mother's body. The fetus is located within her body, attached to it by the umbilical cord, through which it draws nourishment. Steinfelds reacts to those facts with anger and name-calling (unscientific prochoice sloganeering, moral blindness, and deviousness)—neither of which refutes the facts. Not only does the fetus take its food from the mother, but it causes medical and psychological problems. Steinfelds does not discuss the *total* picture of abortion. Yes, there is a moral issue related to the fetus. But other moral issues are involved. Half of women seeking abortions already have one child. They have moral obligations to that child. They may be the child's only caretaker. They have moral obligations to protect their own health. They may be victims of rape or incest. From the tenor and content of the article, I must assume that these issues are not important, even as they complicate the decisions made by pregnant women. To pretend that women do not evaluate their moral obligations is to insult their intelligence and sense of responsibility. Leaving these issues out of the article is itself an insult to women. It is exactly for those reasons that legal bodies should not be involved. A woman should make this decision in consultation with her doctor—and her conscience.

KARLINE YIERNEY  
Catonsville, Md.

### OUT OF PROPORTION

Peter Steinfelds's otherwise admirable article seems to ignore, or implicitly approve, the absolutism of Catholic teaching on abortion. This absolutism dismisses questions about rape, incest, and the life or health of the mother. The embryo seems to have absolute rights that take precedence over the rights of mothers or families. Thus, excommunication was leveled by local bishops in well-publicized cases in recent years (Phoenix; Recife, Brazil), in which the likely death of the mother (in the case of Recife, a nine-year-old girl impregnated by her father!) or the certain death of the fetus (in the Phoenix case doctors determined that continuation of the pregnancy would most likely cause the death of the mother well before the baby's viability) surely made abortion a rational and even commonsense moral choice as the lesser of two evils.

In the case of an Italian physician, Gianna Biretta Molla, canonized by Pope John Paul II in 2004, she decided to continue her pregnancy to term in spite of the strong probability of her death. Her decision left her three other children motherless, and was considered heroic. Maybe so, but was she a model for expectant mothers?

My late wife's attitude toward abortion changed radically when she was a social worker in a home for young girls placed there by the courts because of family abuse, many of them pregnant after suffering incestuous rape. Does the church demand that very young girls carry those babies to term? Are their welfare and mental health of no consideration? What does respect for life mean in such a case? Now we know that these wrenching circumstances are more frequent than was thought years ago, with no commensurate consideration by the always-vigilant hierarchy. I wish Steinfelds had turned his keen eye toward this issue.

RICHARD W. JONSON  
Broomfield, Colo.

### THE AUTHOR REPLIES

I am grateful to Robert Heaney for spelling out some of the biological facts that keep me from taking "moment of



conception” literally. To be clear, however, I did not nominate eight weeks after fertilization as the point at which a human life deserving the same protection we accord the born may be said to begin. My own conviction is that this point comes much earlier. Rather, I suggested eight weeks as one possible point around which a socially persuasive consensus about the nature of the fetus might be formed.

Jack Miles is a friend and writer whose work I greatly admire. He was also my exact contemporary at the *other* Jesuit high school in the Chicago area, where they evidently indulged some folk theology about masturbation as equivalent to murder that I, thank God, was spared. Nor have I ever encountered serious theological claims to that effect about contraception. I do not deny that there may be wisdom in viewing our painful moral quandaries within a larger web of life and death, creation and destruction; or in recognizing our constant intrusions upon natural life processes; or in taking collective responsibility for women and children without resources (quite independently of any question about abortion); or in building on religious and cultural concerns for the protection and nurturance of life, especially human life, in general. But if this effort involves a blurring of the distinction between human life, on the one hand, as it exists in sperm, egg, or my big toe, and an individual human life, on the other hand, then I think we are taking a step backward in morality and civilization.

A brief tour on the internet indicates that Karlina K. Tierney is a veteran of decades of admirable activism and lobbying for women’s rights. I hope that is not the reason her letter reads like the boilerplate appeals sent out from Emily’s List and NARAL rather than a careful response to my argument. My article did not attempt to discuss the total picture of abortion issues. It did go to considerable length to explain why those of us who find compelling the philosophical and theological case for protecting fetal lives from very early after conception should, nonetheless, aim at something more modest legally. (Eight weeks was

simply my own suggestion; although Tierney’s point about many women being still unaware of a pregnancy does not speak to the status of the fetus, it is the kind of fact pertinent to any framing of a legislative goal.) Tierney is quite right in saying that the biological nexus between mother and fetus has moral dimensions—as do many other biological ties and bodily realities in life. But surely she knows that the prochoice claim about the fetus being “part of

the mother’s body” entailed an equivalency with “parts” lacking any similar character. I know the former fetuses of women who declined pressures to seek an abortion. They are now walking around playing music, teaching school, raising children, pursuing careers, and behaving in a manner quite unlike any of their mothers’ other organs would be capable of. Tierney is also quite right in saying “there is a moral issue related to the fetus.” But she concludes that



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anything other than leaving the framing and evaluation of that issue to each particular woman is an "insult to women." I disagree. I don't think we insult elected leaders, no matter how experienced, when we insist that their decision-making about war and other critical matters must be governed by moral and legal limits. We do not insult generals or officers on the battlefield, no matter how honorable, or medical practitioners, no matter how devoted, by erecting codes of ethics, often with legal teeth, that restrict individual judgment. We do not insult employers when we inject antidiscrimination measures into their complex decisions about hiring and firing, or insult parents or spouses when we intervene in the admittedly complicated dynamics of family life to prevent child endangerment or spouse abuse. Of course, whether abortion is at all parallel to these other instances depends on exactly what the moral issue regarding the fetus is and why. On that point, Tierney is silent. A useful conversation might ensue if she—

and many other prochoice stalwarts—were not.

I wish that Richard Jonsen had fore-sworn the facile denunciation of "absolutism." The other guy's absolutism is my fundamental principle. I agree that there is *absolutely* too much absolutism around, from Catholic bishops and anti-abortion activists, as my article indicated, as well as from free-speech and church-state watchdogs, environmentalists, and Tea Partiers. Jonsen highlights appalling cases of incestuous rape and life endangerment. A little more than 1 percent of abortions are due to incest and rape, according to figures from the Centers for Disease Control and the Guttmacher Institute, Planned Parenthood's research arm. Like Jonsen and his late wife, I suspect that the actual percentage is higher. Like Jonsen, I wish the hierarchy were more vocal and proactive about this and about abusive situations. (See my notion of a massive Catholic Pietà Fund devoted to the health, education, and safety of women around the world, ["Shock Therapy," March 8]). But Jonsen should know that a fair number of moral theologians, and probably many more pastoral practitioners, have been exploring the significance of Catholic teachings on assault and self-defense for abortion in the case of rape, incest, and threat to the mother's life. (The elastic concept of health is a more complicated matter.) The American hierarchy long ago made peace with legal exceptions for rape, incest, and threat to a woman's life. And for every bishop taking an extreme (and usually well-publicized) position on a "hard case," there are probably far more, even now, who prefer to quietly leave such judgments in the hands of God. In fairness, I would also guess that Catholic social services and charities do as much to relieve the problems of family abuse as other agencies, if not more. Are circumstances to be considered in deciding when, if ever, it is moral to take a life? That is a legitimate and demanding question. I don't think these familiar reproaches of the hierarchy move us far toward an answer.

PETER STEINFELS

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### Book

*The Tears I Couldn't Cry: Behind Convent Doors* by Patricia Grueninger Beasley, pub 2009 AuthorHouse, ISBN 9781438962900

Available at Amazon bookstore. Author's memoir recounts her experiences as a Catholic Sister 1955–78. Story raises questions: Was it not sacrilegious to degrade women in the name of God? Was the gross inequality of the genders justified? Pat has MA in Religious Studies from Providence College in R.I. (1975).

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## Out of Sight

Sarah Ruden

**L**uxuria is one of those hard words for beginning Latin students to get their heads around. It does and doesn't mean what we mean by "luxury." Maybe the best explanation is that in the modern world we have a very shallow understanding of luxury. The term is used mainly in advertising, and mainly for quite ordinary goods: "luxury" dinnerware or bubble bath, or mid-price cars touted as "the ultimate in luxury."

But for the Romans, *luxuria* was the near-equivalent of Greek hubris. Both have behind them the imagery of material excess leading—and this is what's important—to a diminished sense of cause and effect, and consequently to bad character. The fruit tree that goes unpruned is useless. The overfed ox is spoiled, mean, or just too frisky, and endangers its driver.

In Greek tragedy, tyrants who no longer understand life's ordinary conditions bring down destruction on themselves, their families, and their nations. Roman literature condemns, under the name of *luxuria*, the drunkenness, promiscuity, and general mischief produced by the great wealth sluicing into the imperial capital. Epicureans, with their stress on inner peace and loving friendship, disapproved of luxury as much as the lofty Stoics did, and both kinds of philosophical moralists contributed to Christian doctrine.

The evils of *luxuria* seem more or less a no-brainer. Unless you happen to be right in the middle of them. Yes, Americans decry "consumerism" and long for simpler, more natural lifestyles; we condemn CEOs' hundred-million-dollar salaries and company planes. Nevertheless, *luxuria* has become a basic feature of the way we look at the world, coloring our expectations in ways we rarely notice.

I came of age in the late 1970s, when the nation was getting fed up with crime. During long-distance jogs, I carried a can of mace. It was useful—maybe—once, when a motorcyclist asked for directions and then exposed himself and propositioned me: I threatened him, and he rode off instantly. Outraged, I went to the nearest farmhouse, whose owner phoned the sheriff. I was encouraged by the urgency and sympathy of the response. The peace officer told me, "We'll get him for you, Miss!" Police cars scrambled over the grid of rural roads like fighter planes across the sky. (They finally stopped somebody, but he didn't look like the man who had bothered me.)

For another decade and a half, all through the 1980s, I never questioned my sense of entitlement to security, and neither did anyone else. Then I went to live in South Africa at the end of apartheid. Not a good fit, my attitude with local conditions. I had rationales for my attitude—the need for the rule of law in order for foreign investment to increase, the cogency of the Broken Window Theory (if it's allowed to go unpunished, petty crime can invite more serious crime)—but I really just loathed feeling unsafe, and since I couldn't get at the people who had ransacked my condo



a couple of weeks after I moved in, I turned my attention to the local derelicts. The couple camped on the neighbors' balcony were doing a lot of things that would have got them locked up in the United States: setting cooking fires a few feet from our walls, leaving the outdoor tap on and flooding the garden, etc. But the police weren't interested in putting the offenders where—I told myself—they would be better off.

South Africa is poor. The criminal-justice system can barely deal with a fraction of the murderers and rapists. Besides, there's history and its damage: most people have no reason to respect the law, and for many, lawbreaking is the only available livelihood. If the naïve privileged complain, they are told to install an alarm, build a high wall, or move to a gated community (as I ended up doing).

This is why now, in my quiet neighborhood in Connecticut, when I hear about the "epidemic of incarceration" in the United States, I realize that the theories about our unique degree of racism, the connivance of the for-profit prison industry, and other findings of the experts leave out an important part of the problem. We have the world's largest prison population because we're the world's richest country, and the mass disappearance of nonviolent criminals is the luxury we demand. In many cases, ordinary trouble on our part could protect us from troublesome people, but Americans increasingly want the *luxuria* of trouble-free lives.

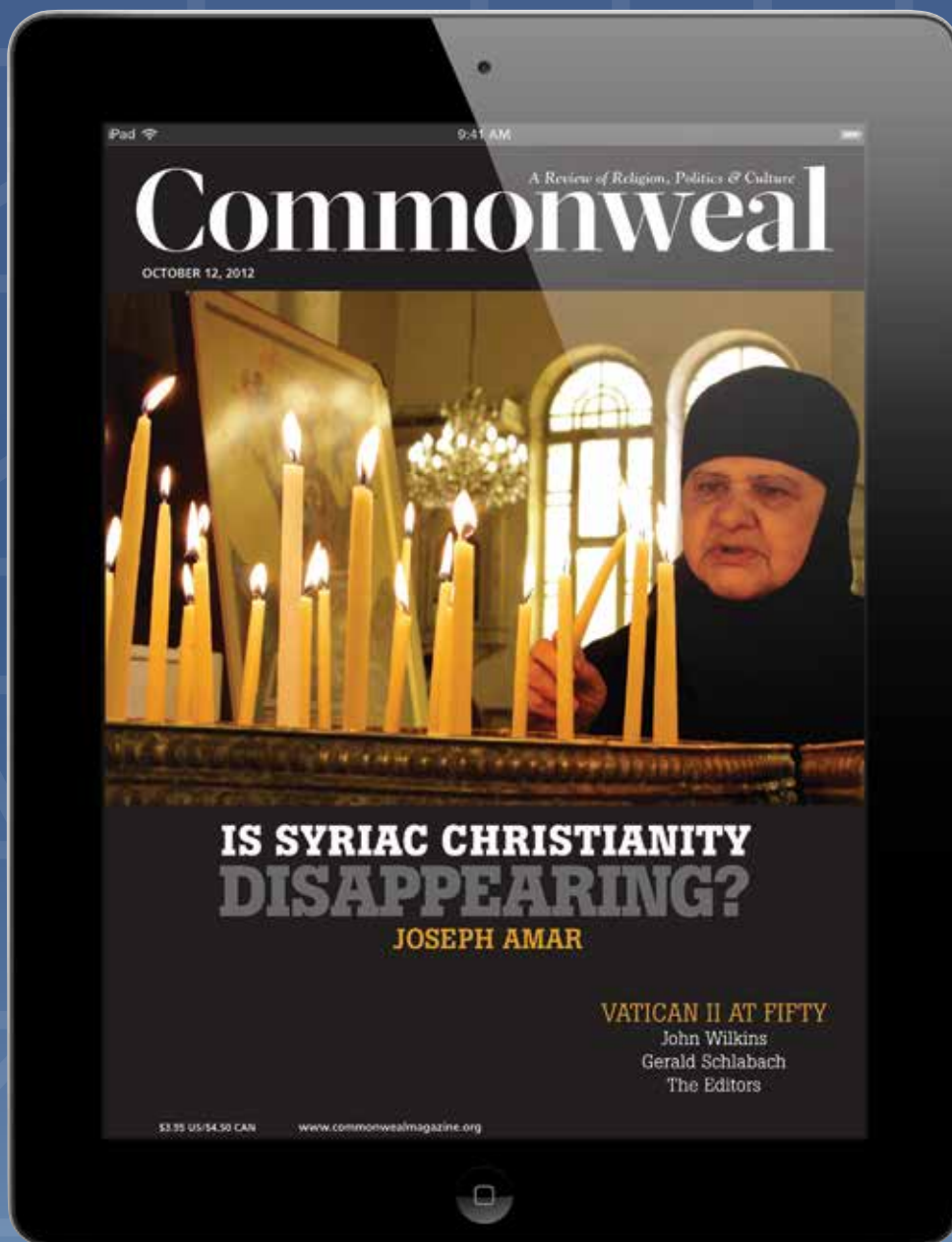
We can't see ourselves becoming *luxuriosi*, our selfishness overcoming our compassion—toward a teenager, for instance, who has no father to guide him. We don't listen to the first part of Mark 14:7: "The poor you will always have with you, and you can help them...." Some people need continual help; locking them up—especially the way we do it—really doesn't count as charity. So what luxury comes next? Perhaps Google Glasses will soon be able to filter out the homeless from our field of vision (along with litter and graffiti and every other eyesore), so that these human irritants won't even reach our eyes, let alone our minds or hearts. ■

**Sarah Ruden's** most recent book is *Paul Among the People* (Image Books). She has translated four books of classical literature (among them the *Aeneid*) and is the author of *Other Places*, a book of poetry. She is a visiting scholar at Wesleyan University and lives with her husband in Middletown, Connecticut.



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