



PROVITA

The University Faculty for Life Newsletter

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Letter from the President

Hello Everyone:

Recent developments at the U.S Supreme Court make it seem that very soon the abortion horror will be in your own backyard with the Court leaving the states to decide whether abortion should be a right. This means that the need for UFFL research and publication will be heightened and the fellowship of our national convention increasingly vital for recharging. So, I hope to see you maskless this coming June at Notre Dame, IN—as planning continues for our annual conference.

Other issues looming include embryo rights as *in vitro* fertilization, sperm, egg, and embryo

banks becomes more common. I also see a coming intensification of the euthanasia movement.

No matter how bad it gets, we will continue to weather these storms and share the light of truth and neighborly love.

In other news, we have a new editor of *Life and Learning*, Don Flanagan, Ph.D. Don earned his doctorate in English with a classics minor from the University of Minnesota and began freelancing as a writer and editor while teaching composition courses at the University of Minnesota and serving as an adjunct at the University of St. Thomas and University of St. Catherine). After a decade, he became a communications manager for high tech companies and a copywriter for an advertising firm. Now retired, he is eager to contribute to our prolife missions. He will make sure that the papers submitted directly to Fr. Koterski for last year’s conference will be published later this winter.

You may also notice that the wheelchair photo in *ProVita’s* masthead has been replaced by the hospital bed. We made the switch because end of life issues are becoming more pressing and because the man in the bed is my father. Before he died at 82, he was in and out of the hospital so many times that his veins became almost too scarred for IV lines. And, although he had many close calls with poor decisions by hospital and nursing home administrators, he never lost his joy, his confidence that God is good, his eagerness to help others including by suffering for the Lord, his quick smile, his eye for fun, and his fight.

Dad had grit. For instance, he earned a master’s in physics in two years despite the demands of a growing family and the need to compensate for having only a bachelor’s in animal husbandry. He always put God first and was fired from a new job

for not revealing trade secrets about the prior research that had led to a patent on transistors in the early 1960s.

Family was always dear to his heart: One time, he decided it was more important to fly with a broken arm than miss a flight to visit one of my brothers. He never tired of thoughtfully and tenderly caring for my mother during her long years of declining health including giving up cutting edge research in the icy north for less exciting work in sunny Arizona.

After she died, he earned his master's in theology and divinity and became a priest for the Diocese of Lubbock. For eight years, he served as the pastor for various small parishes, even though a stroke had totally paralyzed his left arm and partially paralyzed his left leg only a month after ordination. When a massive heart attack required retirement, he returned to the Diocese of Phoenix, where he had built our family house in the 60s. There he served for five years as a very busy "supply priest" offering Mass and the sacraments wherever needed, until the challenges of another stroke and colon cancer redirected his energy for the last four years of his life.

Dad fought to live and to love us all to the very end. Fr. Johnrose Hayden would be glad to lend his image for our fight for life.

Finally, this issue of *ProVita* includes not only Richard Myer's wonderful analysis of current legal developments on the right to life and Chris Kazcor's critique of key abortion arguments but also highlights in its *Member News & Publications*, the UFFL members who submitted amici briefs in *Dobbs v Jackson*, the case that promises to change history.

Sincerely,
Mary

R. Mary Hayden Lemmons, Ph.D., President of UFFL, Associate Professor of Philosophy, University of St. Thomas, St. Paul, MN

Member News & Publications

In which we highlight the activities of our organization, members, and chapters, including publications, talks, and consultations.

*Note: all names in **bold** are members of UFFL.*

- **Helen M. Alvaré, J.D.** (Law, George Mason Law School) with Teresa Collett and Erika Bachiochi filed an amicus brief in *Dobbs v Jackson*.
- **Erika Bachiochi, J.D.** (Ethics and Public Policy Center) filed an amicus brief in *Dobbs v Jackson* with Teresa Collett and Helen Alvaré.
- **Gerard V. Bradley, J.D.** (Law, University of Notre Dame Law School) wrote "A House Divided," a review of *Crisis of the Two Constitutions: The Rise, Decline, and Recovery of American Greatness* by Charles Kesler for *First Things*, 318 (December 2021).
- **Montague Brown, Ph.D.** (Philosophy, St. Anselm College) published "Donald Keefe on the Eucharist and the Refusal of Reductionism" in *Saint Anselm Journal*, 16.2 (Spring 2021).
- **Dr. Brown** also reviewed *Justice and Charity: An Introduction to Aquinas's Moral, Economic, and Political Thought* by Michael Krom in *American Catholic Philosophical Quarterly*, 95.4 (Fall 2021).
- **Peter J. Colosi, Ph.D.** (Philosophy, Salve Regina University) participated in a formal debate at the annual Catholic Medical Association on Oct. 8, 2021. Colosi and Dr. Michel Accad (cardiologist) debated against Fr. Tad Pacholczyk (NCBC) and Dr. Dennis Wells (heart transplant surgeon), the debate can be viewed [here](#).
- **Dr. Colosi** also spoke live on the Drew Mariani Show on Relevant Radio on Oct. 25, 2021 about the woman declared brain dead to

whose leg a pig kidney was attached. That interview can be heard [here](#) (scroll up to the 24 minute mark).

- **Fr. John Conley, S.J., Ph.D.** (Philosophy, Loyola University, Maryland) published “Against Uniformity: Gournay’s Philosophy of Language and Literature” in *Early Modern French Studies*, 43.1 (2021).
- **Thomas Cavanaugh, Ph.D.** (Philosophy, University of San Francisco) reviewed *Intention, Character, and Double Effect* by Lawrence Masek in *Journal of Moral Philosophy*, 18.2 (April 2021).
- **Teresa Collett, J.D.** (Law, University of St. Thomas Law School) filed—as Counsel of Record—two amici briefs in *Dobbs v Jackson* and co-authored a third brief with Matthew J. Sheehan and the Counsel of Record Renee Kristine Carlson.
- **Richard Fehring, Ph.D., R.N.** (Nursing, Marquette University) wrote “Quantitative versus qualitative estrogen and luteinizing hormone testing for personal fertility monitoring,” with Thomas Bouchard and Qiyang Mu, in *Expert Review of Molecular Diagnostics*, 21 (2021).
- **John Finnis J.D.** (Law, Notre Dame Law School) co-authored an amicus brief in *Dobbs v Jackson* with Robert P. George.
- **Clarke Forsyth, J.D.** (Americans United for Life) filed an amicus brief in *Dobbs v Jackson*.
- **Richard Garnett, J.D.** (Law, Notre Dame Law School) co-authored an amicus brief in *Dobbs v Jackson*.
- **Robert P. George, J.D.** (Law, Princeton Law School) co-authored an amicus brief in *Dobbs v Jackson* with John Finnis.
- **Steve Gilles, J.D.** (Law, Quinnipiac University) filed an amicus brief in *Dobbs v Jackson*.

- **Jeff Koloze, Ph.D.** (English, DeVry University) published “Contemporary Literary Theories, Problems with Those Theories, and Why Students of Literature Will Benefit from Right-to-Life Literary Theory” on [lifeissues.net](#).
- **Melissa Moschella, Ph.D.** (Philosophy, Catholic University of America) published “Trapped in the Wrong Body? Transgender Identity Claims, Body-Self Dualism, and the False Promise of Gender Reassignment Therapy” in *The Journal of Medicine and Philosophy: A Forum for Bioethics and Philosophy of Medicine*, 46.6 (December 2021).
- **Richard Myers, J.D.** (Law, Ave Maria School of Law) published “*American Legion v. American Humanist Association* and the Future of the Establishment Clause” in the *Ave Maria Law Review*, 19 (2021).
- **Brian Scarnecchia, J.D.** (Law, Ave Maria School of Law) co-authored, with Ligia Castaldi, Anthony Kolenc, and Steve Krason an amicus brief in *Dobbs v Jackson*.
- **Janet Smith, Ph.D.** (Theology, Sacred Heart Major Seminary) wrote “The Fake Theology Behind Vaccine Mandates” for *Crisis Magazine* (September 27, 2021).
- **O. Carter Snead, J.D.** (Law, Notre Dame Law School) filed an amicus brief in *Dobbs v Jackson* with Mary Ann Glendon.
- **Lee Strang, J.D.** (University of Toledo College of Law) filed an amicus brief in *Dobbs v Jackson*.

Upcoming scholarly opportunities

- The [University Faculty for Life](#) will host its thirty-second annual meeting from June 10 – 11, 2022 at the University of Notre Dame. The theme of the conference is [Attacks on Human](#)

Life: Recent Crises and the Long View. The deadline for priority consideration of proposals is Jan. 22, 2022.

- The Linacre Quarterly is [accepting papers](#) for a special issue, ART and Medicine: Explaining the Moral Dimensions of Assisted Reproduction, to be published in November 2022. Contact [Peter Colosi](#) with any questions.
- The Catholic Medical Association will host its [Medical Resident and Student Boot Camp](#) from June 12 – 19, 2022, in Ave Maria, FL.
- The [American Association of Pro-Life Obstetricians and Gynecologists](#) will host its [2022 conference](#), in person and virtually, from February 25 – 27 in Nashville, TN.

On Campus

- The twenty-third annual [Cardinal O'Connor Conference on Life](#) will take place on Jan. 22, 2022 at Georgetown University. The keynote speaker will be Bishop Robert Barron.
- An extensive list of available jobs and internships for college students and recent graduates is available at the [Students for Life](#) website.

Legal Realities

Richard S. Myers, J.D. (Professor of Law at Ave Maria School of Law, UFFL Vice-President) provides a brief overview of significant legal developments since the last issue of ProVita.

The most significant recent developments concerning life issues involve the United States Supreme Court. The Court has heard three abortion cases in recent months.

The most important case is likely to be [Dobbs v. Jackson Women's Health Organization](#), which

was argued before the Court on December 1, 2021. Dobbs involves the constitutionality of Mississippi's Gestational Age Act, which prohibits most abortions after 15 weeks. The law was enjoined by a federal district court judge in the Southern District of Mississippi. The United States Court of Appeals for the Fifth Circuit affirmed. Judge Ho's concurring opinion explained that he was bound by Supreme Court precedent to affirm the lower court ruling, but he took the opportunity to register his disagreement with the Supreme Court and stated: "Nothing in the text or original understanding of the Constitution establishes a right to an abortion." Judge Ho's opinion continued [a welcome trend of lower court opinions critiquing Roe v. Wade and Planned Parenthood v. Casey](#).

Mississippi's petition for writ of certiorari, which is a request that the Supreme Court hear its case, was filed on June 15, 2020. On May 17, 2021, which importantly was after Justice Amy Coney Barrett replaced Justice Ruth Bader Ginsburg on the Court, the Supreme Court agreed to hear the Dobbs case. The Court's grant of certiorari was limited to this question: Whether all pre-viability prohibitions on elective abortions are unconstitutional.

The Dobbs case has, of course, attracted enormous attention. [Over 140 amicus briefs were filed with the Supreme Court.](#)

As the lower court opinions in Dobbs indicate, Mississippi's Gestational Age Act is inconsistent with the constitutional framework set forth in *Roe v. Wade* and *Planned Parenthood v. Casey*, which prevents states from prohibiting abortion prior to viability. And even after viability, states may not prohibit abortion when an abortion is thought necessary to protect the life or health of the mother.

There has been much speculation about whether the Court will take the opportunity presented by Dobbs to overrule *Roe v. Wade* and *Planned Parenthood v. Casey*. It seems clear that six Justices--Chief Justice John Roberts, Justice Clarence Thomas, Justice Samuel Alito, Justice Neil Gorsuch, Justice Brett Kavanaugh, and Justice Amy Coney Barrett--believe that *Roe* and *Casey* were wrongly decided. Much of the focus in the briefs before the Court was on whether the Court ought to

overrule a precedent (*Roe v. Wade*) that is nearly fifty years old and that was reaffirmed (in *Casey*) nearly thirty years ago. The concept of *stare decisis*, the idea that the Court should adhere to its past decisions, has featured prominently in the debates about the *Dobbs* case. *Stare decisis* was a major issue in *Planned Parenthood v. Casey* when the Court reaffirmed the right to abortion.

By most accounts, the [oral arguments](#) on December 1, 2021 went well for the state of Mississippi. Most observers think the Court is likely to uphold the constitutionality of the Mississippi law. Whether the Court will explicitly overrule *Roe* and *Casey* is a separate issue. It is very difficult to predict the outcome of cases based on oral arguments. The Court seemed likely to overrule *Roe* in 1992 at the time of *Planned Parenthood v. Casey* but the Court surprised most observers and reaffirmed the right to abortion.

The decision in *Dobbs* will likely be issued by late June 2022.

The second abortion case that is now pending before the United States Supreme Court involves the Texas Heartbeat law, which prohibits abortion after about six weeks of pregnancy. The Act does not permit state officials to enforce the law. The Act authorizes private parties to sue anyone who violates the Act. Abortion providers typically challenge pro-life laws by seeking in advance to enjoin state officials from enforcing the laws. The Texas statute is designed to prevent that approach, while still affording abortion providers an opportunity to raise constitutional objections to the law if they are sued by private parties.

The Supreme Court has refused to enjoin the Texas law while court challenges move forward. [The Supreme Court did, however, expedite consideration of two cases that challenge the constitutionality of the Texas statute.](#) One case was brought by abortion providers and another was brought by the United States. The Court heard oral arguments on November 1, 2021.

On December 10, 2021, [the Court ruled on the cases.](#) As expected, the Court did not address the constitutionality of the Texas statute. The Court

focused, instead, on whether the federal courts were required to hear pre-enforcement challenges to the Texas law. The Court allowed the challenges by abortion providers to continue as to certain defendants but allowed the law to remain in effect. Most observers view the Court's rulings as positive signs. Most remain cautiously optimistic about a favorable ruling in *Dobbs*.

The third case before the US Supreme Court is [Cameron v. EMW Women's Surgical Center, P.S.C.](#) The oral argument on October 12, 2021 addressed the following issue: Whether a state attorney general vested with the power to defend state law should be permitted to intervene after a federal court of appeals invalidates a state statute when no other state actor will defend the law.

The Cameron case involves the constitutionality of a Kentucky law banning dismemberment abortions. The United States Court of Appeals for the Sixth Circuit invalidated the law. The governor of Kentucky then abandoned his defense of the law. Daniel Cameron, Kentucky's Attorney General, attempted to intervene in the lawsuit to defend the law. The Sixth Circuit rejected that request.

The Supreme Court agreed to hear the intervention issue but declined to review the constitutionality of the Kentucky statute. The intervention issue is important. It is quite common for a state's governor and its attorney general to be elected separately. That creates problems for the defense of state laws when the governor and attorney general disagree about the constitutional issue presented. Allowing intervention by the state attorney general will help to ensure that pro-life laws passed by a state legislature will be vigorously defended in court, even when such laws are not supported by the state's governor.

As expected, [the oral argument](#) before the United States Supreme Court did not focus on the constitutionality of the Kentucky statute. The focus of the argument was on the procedural issue of intervention. Most observers think the argument went well for Cameron. As a result, pro-lifers are optimistic that the court will permit Attorney General Cameron to intervene to defend the law.

Another important development relates to a proposed federal law, the Women's Health Protection Act, which would protect the right to abortion. The Act is quite extreme and would override many pro-life laws that have been in existence for years. The Act was approved by the House in September, but it seems unlikely that it will make it through the Senate. [Melanie Israel](#) from the Heritage Foundation and former congressman [Daniel Lipinski](#) offer helpful critical commentaries.

There has also been much litigation in lower courts dealing with the constitutionality of pro-life laws. Much of this litigation is likely to be put on hold while the Supreme Court considers the Dobbs case. Two cases of note are *Reproductive Health Services v. Parson* and *Memphis Center for Reproductive Health v. Slatery*.

Reproductive Health Services involves a Missouri statute that in part bans Down syndrome abortions. The Missouri statute was enjoined by a three-judge panel of the United States Court of Appeals for the Eighth Circuit, but the full Eighth Circuit granted rehearing en banc. [Oral argument](#) before the full Eighth Circuit was held on September 21, 2021. A decision is still pending.

Memphis Center for Reproductive Health involves two provisions of Tennessee law. One provision bans abortions after a fetal heartbeat is detected and the other bans abortions when the doctor performing the abortion knows that the pregnant woman is seeking the abortion because of the race or sex of the baby or because of a prenatal diagnosis that the baby might have Down syndrome. On September 10, 2021, the United States Court of Appeals enjoined both provisions. Judge Thapar concurred in the court's ruling on the first provision, after making it clear that his vote was because of the Supreme Court's erroneous decisions in *Roe* and *Casey*. Judge Thapar dissented from the court's judgment that the [discrimination](#) provision was void for vagueness. Here is Judge Thapar's conclusion: "The argument that the Constitution contains a right to abortion has neither [a page of history nor a volume of logic]. As shown above, the historical evidence is clear. The Constitution leaves decisions like this to the states. The state legislatures can do

what we can't: listen to the community, create fact-specific rules with appropriate exceptions, gather more evidence, and update their laws if things don't work properly. And if the public is unhappy, it can fight back at the ballot box. The courts should return this choice to the American people—where it belongs."

On December 1, 2021, the full Sixth Circuit [agreed to rehear the panel's opinion in Memphis Center for Reproductive Health](#).

A Scholar's Analysis

Christopher Kaczor, Ph.D. (*Professor of Philosophy at Loyola Marymount University at Los Angeles, Consultor to the United States Conference of Catholic Bishops*) engages recent scholarship on life issues. A version of this essay appears in the *National Catholic Bioethics Quarterly*.

Why the Violinist Argument Still Fails

David Boonin's *Beyond Roe: Why Abortion Should be Legal-Even if the Fetus is a Person* exhibits philosophical rigor, ingenious counter examples, as well as clarity of thought and expression without needless professional jargon.¹ Anyone, pro-choice or pro-life or in between, can learn from this book. In the end, however, I believe the book fails to establish its chief claim.

In his essay "My Body, Not My Choice," Perry Hendricks nicely summarizes the heart of Boonin's argument:

(1) Being a person does not give one the right to use another person's body, even if it is needed for survival (per *McFall vs. Shimp*).

(2) Therefore, even if the fetus is a person, it does not have the right to use its mother's body, even if it is needed for survival.

(3) The state should only coerce *A* into letting *B* use her body if *B* has a right to *A*'s body.

¹ David Boonin's *Beyond Roe: Why Abortion Should be Legal-Even if the Fetus is a Person*. (New York: Oxford University Press, 2019).

(4) Therefore, the state should not coerce women into not having abortions, even if fetuses are persons.²

Hendricks seeks to undermine the transition from 1, which is true, to 2, which he rejects. Here is a case that calls into question the truth of the claim that the young human being does not have a right to use someone else’s body to survive. Let us call the case “Sally in the Storm.” Hendricks writes,

Sally is 9 months pregnant. Unfortunately—as occasionally happens—she doesn’t know that she’s pregnant. One day, while out hiking, a snowstorm unexpectedly hits, and she is forced to take shelter in a cabin. To make matters worse, she goes into labor while stuck in the cabin. The birth goes well, and her baby is healthy. Sally is stuck in her cabin for 7 days before she is finally dug out. Rescuers find her alive and well, but her infant is dead due to starvation—Sally did not feed her infant, despite having ample food for herself, and producing ample breastmilk (there was no baby formula available in the cabin).³

Legally speaking, if Sally does not feed the baby, she would be guilty of a crime, perhaps felony child neglect or something more serious. Morally speaking, she would be guilty also of neglecting to do something she had a moral obligation to do. However, someone might object that Sally took on this responsibility by not getting an abortion earlier. She (so the argument goes) could have known and should have known that she was pregnant, so the ignorance of her pregnancy does not excuse.

So, let us consider a different case: “Steve in the Storm.” Steve meets his hook up friend from last year, Kristi, at a remote mountain cabin. Before he arrives, she texts that she has a big surprise for him. When he gets to the cabin, she says, “Surprise! You are a dad! I gave birth to your daughter Emma last week.” Kristi points to a crib in the corner. Emma is sleeping soundly. Steve is not happy with this news, and the couple fights. Steve goes to another room in

the cabin to recompose himself. When he comes back out of the room, he realizes that Kristi has left him alone with baby Emma. Unfortunately, moments later a mud slide hits, washing out the road to the remote cabin entirely. Steve is stuck in the cabin for seven days before he is finally dug out. Rescuers find him alive and well, but his infant daughter is dead due to starvation. Steve did not feed his daughter despite having ample baby formula that Kristi had brought to the cabin.

Did Steve do something wrong? Legally speaking, he is guilty of child neglect at the least. Morally speaking, he had an obligation to provide what his minor dependent daughter needed in order to survive. In order to feed his daughter, he would have had to use his body to make and then to feed her bottles of formula. He had this obligation despite not agreeing to it, just as deadbeat dads have an obligation to use their bodies to provide child support payments despite, in some cases, not agreeing to become fathers. It would seem that the cases of “Sally in the Storm” and “Steve in the Storm” make clear that we can have an obligation to use our bodies to save the lives of our own children. Of course, these analogies work because most people hold that a newborn baby is a person. But recall that the violinist analogy for abortion is supposed to work on the supposition that the prenatal human being is a person.

One way critics of the violinist analogy object is by contrasting gentle “detaching” from the violinist to the actual methods of abortion. Boonin replies quite rightly that consistent critics of abortion do not accept abortion so long as it is done by hysterectomy abortion, rather than action directly against the body of the prenatal human being.⁴ In her essay, “Rethinking Unplugging,” Angela Knobel supports Boonin’s point when she says that, “No serious scholar who opposes abortion would consider death by exposure an acceptable alternative to current abortion practices. Indeed, if *method* alone were the main objection to abortion, disputes about it could easily be resolved. One could simply require that all fetuses be removed alive and intact, so that

² Perry Hendricks, “My Body, Not My Choice: Against Legalised Abortion,” *Journal of Medical Ethics*, e-pub May 18, 2021, doi: 10.1136/medethics-2020-107194.

³ Hendricks, “My Body, Not My Choice.”

⁴ Boonin, *Beyond Roe*, p.111.

the fetus's death occurred only after it had been 'unplugged' from the mother."⁵

Death by exposure is, on my view, different at least in some cases from the intentional killing that takes place in actual abortions. What is relevant, from a moral point of view and in some cases legally also, is not simply the effect of death but whether this effect is intended as a means or as an end. So, death by exposure could be intentional killing, and probably is intentional killing in most cases, but it is not necessarily intentional killing. Death as a side effect, for a serious reason, is permissible according to double-effect reasoning. So, if a cancerous uterus is removed from a woman in order to save her life, and the prenatal being ends up dying from exposure following the removal, this death is not necessarily intended.

Boonin responds to this as well. "If McFall had no right to use Shimp's bone marrow in the original case, why would McFall suddenly have this right simply because the reason Shimp didn't want to let him have the bone marrow was that he hated him?"⁶ But this is to misunderstand the objection. It is legal to hate a person. It is not legal to intentionally kill a person. It can be the case *both* that McFall had no right to use Shimp's bone marrow and that Shimp has no right to intentionally kill McFall. The right to life means the right not to be intentionally killed by others. But that is exactly what takes place in every abortion. Abortion, as I've argued elsewhere, is properly defined as intentionally killing the prenatal human being as a means or as an end.⁷ So, the removal of a previsible human being from the uterus is not always abortion properly speaking, but it is abortion if this removal is done with the intention of killing the young human being. Shimp has every legal right to hate McFall, but he has no legal right to intentionally kill McFall, nor any other innocent person.

Boonin also endeavors to show the failure of the objection to the violinist argument from the

⁵ Knobel, "Rethinking Unplugging," 702, emphasis original.

⁶ Boonin, *Beyond Roe*, p.125.

⁷ Christopher Kaczor, *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice*. Second edition (New York: Routledge, 2015). p.7-8

special relationship that exists between parents and children. If it turned out that Shimp and McFall were father and son that would make no difference. He imagines a case in which a frozen embryo, made from gametes of people unknown to her, is implanted in a woman without her consent.⁸ In this case, she is not the biological mother of this prenatal human being. If she is not the biological mother, then she does not have the duties of a biological mother.⁹

But this case does not succeed in showing that parental duties are absent. It is true that if the frozen embryo does not come from her egg, then she is not the biological mother. However, if the frozen embryo is implanted in her uterus, then she is the gestational mother or the surrogate mother. And in virtue of this maternal relationship, she has special responsibilities. In the case in question, she deserves special support, compassion, and concern because the pregnancy resulted from a kind of rape, but she is nevertheless still a mother and has the minimal duties of a mother until the baby is born at which time she ceases being the gestational-surrogate mother and can decide whether she will be the social mother and raise the baby or place the child in a family via adoption.

Finally, Boonin appeals to feminist concerns in order to justify abortion, "If you think abortion should be legal because of the effect it would have on gender equality if women were forced to carry their unplanned pregnancy to term, I hope you'll consider that your position might be strengthened by incorporating mine into it in the way I briefly suggested in chapter 21."¹⁰ Banning abortion forces women to carry their pregnancies to term. Moreover, "[I]f the law forces women to let other people use their bodies as a form of life support but doesn't force men to let other people use their bodies as a form of life support, it would seem to reinforce pernicious gender stereotypes."¹¹ These concerns have also been expressed recently elsewhere. In her essay, "Fetuses, Orphans, and a Famous Violinist,"

⁸ Boonin, *Beyond Roe*, p.92.

⁹ On the responsibilities of a biological parent, see Melissa Moschella, "Rethinking the Moral Permissibility of Gamete Donation," *Theoretical Medicine and Bioethics* 35.6 (December 2014): 421-440, doi: 10.1007/s11017-014-9314-4.

¹⁰ Boonin, *Beyond Roe*, p.207.

¹¹ Boonin, *Beyond Roe*, p.133.

Gina Schouten echoes the common feminist sentiment that “in order to achieve full equality in workplaces, politics, and intimate relationships, women must be able to decide whether and when to have children; and in order to secure their bodily integrity, women must be able to end pregnancies they do not want to continue.”¹² Teresa Collett, Helen Alvaré, and Erika Bachiochi question this argument from equality in a brief filed with the Supreme Court on behalf of some 240 women and various pro-life feminist organizations and feminist scholars. These women point out,

Data regarding women’s participation in the labor market and entrepreneurial activities, as well as their educational accomplishments, professional engagement, and political participation, reveals virtually no consistent correlation with abortion rates or ratios. . . . Instead, the data suggest some correlation between abortion, the feminization of poverty, and women’s declining levels of happiness, including fewer and less satisfying long-term committed relationships with partners and the birth of fewer children than women desire by the end of their reproductive lives. There is also some evidence that the *Casey* plurality’s imprimatur on a male normative experience of reproduction as the model for economic and social participation has retarded meaningful accommodation of pregnancy and motherhood in the workplace and other spheres of society.¹³

Elsewhere, Erika Bachiochi points out that many feminist defenses of abortion make a dubious assumption: the male mode of reproduction is the ideal which female bodies need to emulate if they are to have equality.¹⁴

¹² Gina Schouten, “Fetuses, Orphans, and a Famous Violinist: On the Ethics and Politics of Abortion,” *Social Theory and Practice* 43.3 (July 2017): 637, doi: 10.5840/soctheorpract20178417.

¹³ Brief for 240 Woman Scholars and Professionals, and Pro-life Feminist Organizations as *amici curiae* for petitioners, at 6–7, July 19, 2021, *Dobbs v. Jackson Women’s Health Organization*, Supreme Court of the United States, no. 19-1392.

¹⁴ Erika Bachiochi, *The Rights of Women: Reclaiming a Lost Vision* (Notre Dame, IN: University of Notre Dame Press, 2021).

The argument from equality also fails to distinguish between equality of opportunity and equality of outcome. It is illegal in the United States to discriminate against women on the basis of pregnancy. Women, including pregnant women, enjoy equality of opportunity according to the law. The remedy for failure to provide equality of opportunity is not abortion, but legal action against those in violation of the law. By contrast, equality of outcome is not legally required, nor should it be. As Thomas Sowell has argued, “If there is not equality of outcomes among people born to the same parents and raised under the same roof, why should equality of outcomes be expected—or assumed—when conditions are not nearly so comparable?”¹⁵ In his book *The Blank Slate*, Steven Pinker points out that on average, men and women have different interests.¹⁶ Given these different interests, men and women will be drawn to different professions. Generally, men are more interested than women in high-risk, high-reward professions such as deep sea fishing, coal mining, and logging. Indeed, recent research has found that these differences on average between men and women *increase* rather than decrease in countries with greater opportunities for women.¹⁷ So, equality of outcome is an unrealistic expectation—with or without termination abortion.

There is at least one more reason to reject the argument for abortion from equality. Evidence suggests that women who become mothers tend to earn less than women who do not become mothers. So, if we took the argument from equality as a justification for killing offspring, we would conclude that not only pre-birth abortion but also post-birth abortion is necessary to achieve equality of outcome. Moreover, the argument for abortion from equality ignores the equal basic rights of the individual who gets killed, which, if we are concerned about equal of opportunity or outcome, is a signal concern.

¹⁵ Thomas Sowell, *Discrimination and Disparities* (New York: Basic Books, 2019), 7.

¹⁶ Steven Pinker, *The Blank Slate: The Modern Denial of Human Nature* (New York: Penguin Books, 2003), 343–350.

¹⁷ Lingshan Zhang et al., “Are Sex Differences in Preferences for Physical Attractiveness and Good Earning Capacity in Potential Mates Smaller in Countries with Greater Gender Equality?” *Evolutionary Psychology* 17.2 (April 2019), 1474704919852921, doi: 10.1177/1474704919852921.

Reminders

- **Lifetime membership** UFFL offers Lifetime Membership. Five hundred dollars will enable you to support our mission more easily throughout your golden years. More details are posted on our [website](#).
- **2021 Dues Reminder** Be sure to pay your dues. Annual dues are \$40. On-line payment is possible through PayPal and our website, as well as by mailing them to **Dr. Margaret Hughes**, University Faculty for Life, Thomas Aquinas College, 231 Main Street, Northfield, MA 01360. Dues are important for receiving the print copies of our peer reviewed *Life and Learning*.
- **Keep your email address updated** Updates can be made either by contacting **Dr. Margaret Hughes** at provita.editor@gmail.com. Updated email addresses enable one to receive our *ProVita* electronic newsletter as well as important messages about UFFL.
- **Social Media** UFFL is on Facebook and LinkedIn. On Facebook, you can “like” the “University Faculty for Life” page. Our blog can be found at www.uffl.org/blog/. There is also an active “University Faculty for Life” subgroup of the “Pro-life Professionals” group on LinkedIn.

Please begin to think about items for next issue, which will come out in the fall. We need:

- Notices of member’s publications, presentations and other activities,
- Calls for papers and notices of upcoming conferences.
- Citations of relevant significant research in any discipline, whether from a pro-life perspective, neutral, or the opposing perspective.
- Useful online and print resources.
- Reviews of promising prolife publications.

Please submit all contributions for the Winter/Spring 2022 issue by April 1st. Any contributions should be sent to provita.editor@gmail.com.

Masthead

Publisher	University Faculty for Life
Editor	Margaret I. Hughes, Ph.D.
Columnists	Richard Myers, J.D.; Christopher Kaczor, Ph.D.
Web Support	Stephen Feher of the Ridgefield Group

ProVita is the quarterly online newsletter of the [University Faculty for Life](#). Its purpose is to promote research, dialogue and publication by faculty who respect the value of human life from inception to natural death, especially focusing on abortion, euthanasia, and infanticide. More information about UFFL can be found on our web site at uffl.org. Editorial correspondence can be sent to the editor at provita.editor@gmail.com.

2022 Life and Learning Conference



UNIVERSITY
FACULTY FOR LIFE

32nd ANNUAL LIFE AND LEARNING CONFERENCE JUNE 10-11, 2022

UNIVERSITY OF NOTRE DAME, SOUTH BEND, INDIANA
Hosts: McGrath Institute for Church Life
Notre Dame Chapter of University Faculty for Life

Attacks on Human Life: Recent Crises & the Long View

2022 Rupert & Timothy Smith Award Lecture
title of talk TBA

O. Carter Snead, J.D.
Professor of Law, Concurrent Professor of Political Science,
Director of de Nicola Center for Ethics and Culture
at the University of Notre Dame, Indiana

KEYNOTE SPEAKERS

<p>Vincent Phillip Muñoz, Ph.D. Tocqueville Associate Professor of Political Science & Associate Professor of Law, University of Notre Dame and Founding Director of the Center for Citizenship and Constitutional Government talk title TBA</p>	<p>Teresa Stanton Collett, J.D. Professor, University of St. Thomas Law School and its Prolife Center's Founding Director; American Law Institute Elected Member talk title TBA</p>	<p>John O'Callaghan, Ph.D. Associate Professor of Philosophy, University of Notre Dame; Director, Jacques Maritain Center; Member, Pontifical Academy of Thomas Aquinas; ACPA President 2012-13. What is a Failed Person?</p>
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Specialist Panels: Dobbs v Jackson Amici Briefs (organizer Richard Myers, J.D.); Book panel on O. Carter Snead's *What It Means to be Human* (organizer RM Lemmons, Ph.D.), other specialist panels TBA (*would be organizers please contact rmlemmons@stthomas.edu*)

Proposals Due January 22, 2022 for priority consideration: All proposals should be one page (maximum) including the proposed paper's working title and a brief abstract. Email proposals to Professor Barbara Freres at bjfreres@stitch.edu. Excellent conference papers are eligible for publication in our peer-reviewed proceedings, *Journal of Life and Learning*.

Submission Topics: Legal, political, cultural, philosophical, spiritual, psychological, social, biological, medical, historical, and economic analyses of abortion, infanticide, and euthanasia as well as prolife remedies and pedagogies.

Register On-Line with the University of Notre Dame's McGrath Institute for Church Life or at uffl.org. Conference begins 1:00 pm Friday, June 10th; ends Saturday evening.
For more information see www.uffl.org; or contact UFFL President R. Mary Lemmons, rmlemmons@stthomas.edu

Web Resources for Research and Education

<p><i>Life and Learning</i> The Journal of the University Faculty for Life</p>	
<p>UFFL Blog</p>	
<p>Member web pages and blogs Please forward any other member’s web pages to provita.editor@gmail.com.</p>	
<p>Beckwith, Francis</p>	<p>Lemmons, Rose Mary Hayden</p>
<p>Bachiochi, Erika</p>	<p>Smith, Janet E.</p>
<p>Colosi, Peter</p>	<p>Irving, Diane</p>
<p>Koloze, Jeff</p>	
<p>Online Resources</p>	
<p>Bad Cripple Blog: A Resource for Pro-lifers</p>	<p>A blog written by William Peace, Ph.D., who advocates for the rights of the disabled.</p>
<p>Before Roe v. Wade: Voices that Shaped the Abortion Debate Before the Supreme Court's Ruling (2d edition, 2012)</p>	<p>“In this ground-breaking book, Linda Greenhouse, a Pulitzer Prize-winning journalist who covered the Supreme Court for 30 years for The New York Times, and Reva Siegel, a renowned professor at Yale Law School, collect documents illustrating cultural, political, and legal forces that helped shape the Supreme Court’s decision and the meanings it would come to have over time.”</p>
<p>Culture of Life Foundation</p>	<p>Complex moral issues made simple</p>
<p>Global Health and Human Rights Database</p>	<p>“The Global Health and Human Rights Database is a free online database of law from around the world relating to health and human rights. Developed by Lawyers Collective and the O’Neill Institute for National and Global Health Law at Georgetown University, in collaboration with a worldwide network of civil society partners, the database offers an interactive, searchable, and fully indexed website of case law, national constitutions and international instruments.”</p>
<p>Human Life International Truth and Charity</p>	<p>“The <i>Truth and Charity Forum</i> is an online publication of Human Life International (HLI), dedicated exclusively to the sacredness and gift of all human life, the mission and vocation of the family, and the right to live in accord with our Catholic faith.”</p>
<p>Life Issues</p>	<p>Updated daily with articles to provide “clear thinking about crucial issues.”</p>
<p>Mirror of Justice</p>	<p>A blog dedicated to the development of Catholic legal theory.</p>
<p>National Museum of Health</p>	<p>From the Carnegie Stages of Human Embryonic Development.</p>

and Medicine, Human Developmental Anatomy Collection, Stage 1a	
Social Science Research Network (SSRN)	SSRN (the Social Science Research Network). “Our vision was (and still is) to enable scholars to share and distribute their research worldwide, long before their papers work their way through the multi-year journal refereeing and publication process.”
USCCB Human Life and Dignity web page	United States Conference of Catholic Bishops
Witherspoon Institute Public Discourse	Public Discourse is an online publication of the Witherspoon Institute that seeks to enhance the public understanding of the moral foundations of free societies by making the scholarship of the fellows and affiliated scholars of the Institute available and accessible to a general audience.
World Expert Consortium for Abortion Research and Education	International research collaboration, Scientific information dissemination, Professional education, Consultation, Expert testimony, Program evaluation, Grant writing
Journals and Online Publications	
Charlotte Lozier Institute (Susan B. Anthony List)	The education and research arm of the Susan B. Anthony List
Ethika Politika	Ethika Politika is a publication of the Center for Morality in Public Life. Its purpose is to put the search for wisdom at the service of good practical decisions, and to engage contemporary ethical and cultural issues from an elevated yet common sense perspective.
Human Life Review	
Linacre Quarterly	Journal of the Catholic Medical Association.
Post-Abortion Review	“Documents abortion's injustice and harm to women”
Organizations	
Americans United for Life	
Bioethics defense fund	<p>Bioethics Defense Fund (BDF) is a public-interest law firm whose mission is to advocate for the human right to life via litigation, legislation and public education.</p> <p>BDF provides legal expertise and public education on the issues of healthcare rights of conscience, abortion and its impact on women, human cloning/destructive human embryo research, and end of life issues including physician-assisted suicide and healthcare rationing.</p>
Catholic Medical	

Association	
Center for Bioethics and Human Dignity	“The Center for Bioethics & Human Dignity explores the nexus of biomedicine, biotechnology, and our common humanity. Within a Judeo-Christian Hippocratic framework, we anticipate, interpret, and engage the pressing bioethical issues of our day. As a center of rigorous research, theological and conceptual analysis, charitable critique, and thoughtful engagement, we bring clarity to the complex issues of our day.”
Feminists for Life	
Healing the Culture	Promotes the Life Principles of UFFL co-founder Robert J. Spitzer, SJ.
The International Center on Law, Life, Faith and Family (ICOLF)	“The International Center on Law, Life, Faith and Family (ICOLF) was established with a view to producing, compiling and providing a broad range of resources and materials for a number of interested parties working on “Law, life, faith and family” issues on the national, regional and international levels.”
National Catholic Bioethics Center	Publishes the <i>National Catholic Bioethics Quarterly</i>
Prolife Center at the University of St. Thomas	Founded and headed by UFFL member Teresa Collett to defend the sanctity of human life by training law students and lawyers, by assisting government officials in drafting, passing and defending prolife laws, and developing the necessary legal scholarship necessary to create a culture of life.
Society of Catholic Social Scientists	
Women Deserve Better	
News	
Bioedge	LifeNews.com
National Right to Life News	LifeSiteNews