



# PROVITA

## The University Faculty for Life Newsletter

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### Table of Contents

UFL Updates .....	1
Letter from the President .....	1
Reminders .....	2
Member News & Publications .....	2
Upcoming scholarly opportunities .....	4
On Campus .....	4
Book Reviews .....	5
Legal realities .....	6
A Scholar's Analysis .....	9
Web Resources for research and education .....	12
Masthead .....	17

### UFL Updates

- **2020 Life and Learning Conference** The **2020 Life and Learning Conference** returns to a Friday/Saturday schedule and will be held on June 5<sup>th</sup> and 6<sup>th</sup>. The conference will take place at St John's University in Manhattan, NY. Besides the standard topics, the conference's special topic is "'Creating a Culture of Life: Celebrating the 25th Anniversary of the Gospel of Life (Evangelium Vitae).'" The deadline for proposals is January 22, 2020. More information will be forthcoming.

### Letter from the President

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

Hello Friends,

Our 2019 June conference at beautiful Mundelein was rewarding for all participants. The keynote speakers Miguel Romero, Jeffrey Tranzillo and Elizabeth Schiltz gave powerful presentations on current developments in the strengthening culture of death, while also establishing glimmers of hope for a better tomorrow. The Smith Lecture, by our 2019 recipient, Thomas Cavanaugh, was insightful and very moving. Participants were also treated to a free copy of John Keown's second edition of his perceptive "Euthanasia, Ethics and Public Policy: An Argument Against Legalisation." Thank you, John for your generosity. The book would be a wonderful addition to every university's library.

Next year we trade the shady trees of Mundelein for the towering skyline of Manhattan. Our 2020 conference will be hosted by St. John's University in Manhattan, NY on June 5-6.

Our overarching theme will be "Creating a Culture of Life: Celebrating the 25th Anniversary of the Gospel of Life (Evangelium Vitae)." Our purview of this document will focus on unpacking the insights, warnings, ramifications, and significance of John Paul II's analysis of the culture of death and its remedies. Topics to be investigated include the theological significance of the fullness of human

life, the ethics and politics of abortion and euthanasia, the indispensable role of prolife feminism, the unalienable moral and legal right to avoid doing wrong, the indispensability of strong families for the education of love, the centrality of love, and John Paul II's recommendations for building a culture of life. Other topics include legal and scientific developments in caring for human beings from conception to natural death. Additional details and the Call for Proposals – due 22 January 2020 --will be forthcoming.

Our 2020 Smith Award Recipient is the prolific champion and former UFFL President, **Teresa Collett, J.D.** (Law, University of St. Thomas).

Other news include that our website is being updated and redesigned for mobile access. Also, our dues are increasing from \$35 to \$40 effective the first of January 2020.

Included in this issue of ProVita are some important legal developments as analyzed by **Richard Myer, J.D.** (Law, Ave Maria Law School) in [Legal Realities](#) and an insightful argument about how conscientious objection does not entail relativism by **Christopher Kaczor, Ph.D.** (Philosophy, Loyola Marymount University), in [A Scholar's Analysis](#).

Please don't forget to pay your 2020 dues—and to start planning a paper for Manhattan!

Have a wonderful fall semester.

Mary

## 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](#).
- **Dues Reminder** Be sure to pay your dues. On-line payment is possible through PayPal and our website.

- **When paying your dues, please confirm your current email address**

If necessary, please update *both* your email address and your mailing address using the [membership renewal form](#). Address updates and dues can also be sent to **Fr. Joseph Koterski, S.J.**, University Faculty for Life, Dept. of Philosophy, Fordham University, Bronx, NY 10458.

- **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/](http://www.uffl.org/blog/). There is also an active “University Faculty for Life” subgroup of the “Pro-life Professionals” group on LinkedIn.

## 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 Alvaré, J.D.** (Law, George Mason University) published “Is This Any Way to Make Civil Rights Law? Judicial Extension of ‘Marital Status’ Nondiscrimination to Protect Cohabitants” in the *Georgetown Journal of Law and Public Policy*, 17.1 (Winter 2019): 247 – 286.
- **Prof. Alvaré** contributed “Dialoguing with Paganism” to the *Journal of Catholic Legal Studies*, 57.1 (2019): 57 – 61.
- **Prof. Alvaré** also contributed “Contraception: US Law and Messaging” to *Humanae Vitae 50 Years Later: Embracing God’s Vision for Marriage, Love, and Life*, ed. Theresa Notare, Washington, DC: Catholic University of America Press, 2019. 276 – 294.
- **Gerard V. Bradley, J.D.** (Law, University of Notre Dame) co-edited, with **E. Christian Brugger, D.Phil.** (Theology, St. Vincent de

Paul Regional Seminary) *Catholic Social Teaching: A Collection of Scholarly Essays*. New York: Cambridge University Press, 2019.

- **Prof. Bradley** also contributed “How Bishops Should Teach Catholic Social Teaching” to *Catholic Social Teaching: A Collection of Scholarly Essays*, ed. Gerard V. Bradley and E. Christian Brugger. New York: Cambridge University Press, 2019. 528 – 547.
- **Dr. Brugger** contributed “Catholic Social Teaching is Catholic Moral Teaching” to *Catholic Social Teaching: A Collection of Scholarly Essays*, ed. Gerard V. Bradley and E. Christian Brugger. New York: Cambridge University Press, 2019. 509 – 527.
- **Teresa Stanton Collett, J.D.** (Law, University of St. Thomas) contributed “Against Ideological Colonization: The Teaching of *Humanae Vitae* and Humanely Adequate Global Ethic” to *Humanae Vitae 50 Years Later: Embracing God’s Vision for Marriage, Love, and Life*, ed. Theresa Notare, Washington, DC: Catholic University of America Press, 2019. 246 – 275.
- **Fr. John Conley, S.J., Ph.D.** (Philosophy, Loyola University, Maryland) wrote *The Other Pascals: The Philosophy of Jacqueline Pascal, Gilberte Pascal Périer, and Marguerite Périer*. South Bend: University of Notre Dame Press, 2019.
- **Fr. Conley** also published “Tutor, Salon, Convent: the Formation of Women Philosophers in Early Modern France” in the *British Journal for the History of Philosophy*, 27.4 (July 2019): 786 – 805.
- **Richard Fehring, Ph.D., R.N.** (Nursing, Marquette University) contributed “A Historical Review of the Catholic Scientists Who Answered the Call of *Humanae Vitae*” and “Signs of Growth and Healing: Health Care and Science” to *Humanae Vitae 50 Years Later: Embracing God’s Vision for Marriage, Love, and Life*, ed. Theresa Notare, Washington, DC: Catholic University of America Press, 2019. 147 – 169; 364 – 381.
- **John Finnis, D.Phil.** (Law, University of Notre Dame) contributed “Aquinas as a Primary Source of Catholic Social Teaching,” “Globalization,” and “A Radical Critique of Catholic Social Teaching” to *Catholic Social Teaching: A Collection of Scholarly Essays*, ed. Gerard V. Bradley and E. Christian Brugger. New York: Cambridge University Press, 2019. 11 – 24; 316 – 344; 548 – 584.
- **Christopher Kaczor, Ph.D.** (Philosophy, Loyola Marymount University) contributed “God’s Plan, Married Love, and the Gift of Children” to *Humanae Vitae 50 Years Later: Embracing God’s Vision for Marriage, Love, and Life*, ed. Theresa Notare, Washington, DC: Catholic University of America Press, 2019. 333 – 348.
- **Dr. Jeff Koloze** (English, DeVry University) will present a paper in October before the annual conference of the Society of Catholic Social Scientists at Franciscan University of Steubenville. “When Medicine Is Challenged by Art: Pro-Life Responses in the Art of T. Gerhardt Smith to Medical Aggression Against the Vulnerable” analyzes some of Smith’s paintings on the three life issues of abortion, infanticide, and euthanasia.
- **Fr. Joseph Koterski, S.J., Ph.D.** (Philosophy, Fordham) reviewed *The Spark of Faith: Understanding the Power of Reaching Out to God* by Wojciech Giertych, O.P., and *Considerations of the Essence of Man / Rozważania o Istocie Człowieka* by Karol Wojtyła for *International Philosophical Quarterly*, 59.2 (June 2019): 239 – 242.
- **Peter J. Colosi, Ph.D.** (Philosophy, Salve Regina University) was promoted to Associate Professor with tenure at Salve Regina University.
- **Dr. Colosi** also co-organized and emceed the 5<sup>th</sup> International Symposium on Pope Saint John Paul II’s Theology of the Body in Holland, June 28 – 30, 2019. Dr. Colosi delivered a lecture at the event titled, *The Place of Theology of the Body in the History of Church Teaching*. Among the expert

speakers at the Symposium were Willem Jacobus Cardinal Eijk of the Netherlands who has been Archbishop of Utrecht since 2008, and Dr. Janet E. Smith, board member of UFFL. The program and videos of all talks can be seen [here](#).

- **Dr. Colosi** co-organized and made several presentations at the 7<sup>th</sup> Annual Catholic Medical Association Medical Student & Resident Boot Camp, University of St. Mary of the Lake (Mundelein Seminary), Mundelein, Illinois, June 9 – 16, 2019: “Foundational Bioethical Principles and How to Apply Them”; “Metaphysics of the Human Person and Medical Ethics”; “Philosophy for Physicians” and “Defining Death”, which was a panel discussion dealing with the question of brain death.
- **Melissa Moschella, Ph.D.** (Philosophy, Catholic University of America) published “Sexual Ethics, Human Nature, and the ‘New’ and ‘Old’ Natural Law Theories” in the *National Catholic Bioethics Quarterly*, 19.2 (Summer 2019): 251 – 278.
- **Dr. Moschella** also published “Sexual Identity, Gender, and Human Fulfillment: Analyzing the ‘Middle Way’ Between Liberal and Traditionalist Approaches” in *Christian Bioethics: Non-Ecumenical Studies in Medical Morality*, 25.2 (August 2019): 192 – 215.
- **Janet Smith, Ph.D.** (Theology, Sacred Heart Major Seminary) contributed “New Challenges to Humanae vitae: Conscience and Discernment” to *Humanae Vitae 50 Years Later: Embracing God’s Vision for Marriage, Love, and Life*, ed. Theresa Notare, Washington, DC: Catholic University of America Press, 2019. 295 – 316.
- **Bernadette Waterman Ward, Ph.D.** (English, University of Dallas) reviewed *A Well of Wonder: Essays on C.S. Lewis, J.R.R. Tolkien, and the Inklings* by Claude S. Kilby for *Christianity & Literature*, 68.4 (September, 2019): 697 – 700.

- **Christopher Wolfe, Ph.D.** (Politics, University of Dallas) contributed “Are Some Men Angels? Modern Catholic Social Thought and Trust in Government” to *Catholic Social Teaching: A Collection of Scholarly Essays*, ed. Gerard V. Bradley and E. Christian Brugger. New York: Cambridge University Press, 2019. 345 – 364.

## Upcoming scholarly opportunities

- The [2019 Educational Conference of the Catholic Medical Association](#), whose theme will be “Physician, Heal Thyself: Living a Fulfilled Life in Medicine” will take place in Nashville, TN from September 26 – 29, 2019.
- The [2019 LifeTech Conference](#) will take place on Oct. 26 at Cedarville University in Cedarville, OH.
- The annual national conference of the [Society of Catholic Social Scientists](#) will take place in Steubenville, OH, at Franciscan University of Steubenville from October 25 – 26, 2019. The call for papers is [here](#).
- The [American Association of Pro-Life Obstetricians and Gynecologists](#) will host its [2020 conference](#) from March 27 – 29 at Trinity International University in Deerfield, IL.

## On Campus

- The [Love and Fidelity Network](#) will host its [2019 conference](#) on Nov. 8 – 9 at Princeton University in Princeton, NJ. The topic of the conference is “Sexuality, Integrity, and the University.”
- The twenty-first annual [Cardinal O’Connor Conference on Life](#) will take place on Jan. 25, 2020 at Georgetown University. Keynote

speakers will be Dr. Jonathan Reyes, Assistant General Secretary for Integral Human Development for the United States Conference of Catholic Bishops and the Executive Director for Justice Peace and Human Development, and Sr. Bethany Madonna, S.V., Vocation Director for the Sisters of Life.

- [Students for Life of America](#) is hosting its [National Pro-Life Summit](#) on Jan. 25, 2020, in Washington, D.C., a day after the March for Life.
- [The Culture Project](#) is hiring [missionaries](#) and [interns](#) for the 2019 – 2020 school year. For more information, submit this [form](#).
- [Feminists for Life](#) is accepting applications from college students for fall, winter, and spring [internships](#), including telecommuting internships. To apply, email a resume, phone number, a cover letter explaining the applicant’s beliefs, history with the pro-life and women’s causes (especially Feminists for Life) and sample writing or design (depending on your interest) to [info@feministsforlife.org](mailto:info@feministsforlife.org).

## Book Reviews

*UFFL Members are invited to submit book reviews for consideration for publication. Please email the editor at [provita.editor@gmail.com](mailto:provita.editor@gmail.com) for more information and to submit a review.*

*Philosophical Posthumanism.* By Francesca Ferrando. New York NY: Bloomsbury Academic, 2019. Pp. 271. \$115.00 cloth.  
*Human Dignity in the Judaeo-Christian Tradition: Catholic, Orthodox, Anglican, and Protestant Perspectives.* Edited by John Loughran. New York NY: Bloomsbury Academic, 2019. Pp. 283. \$115.00 cloth.

Reading books with diametrically opposite perspectives can often prove very enlightening. Francesca Ferrando’s *Philosophical Posthumanism* tries to make the case for “non-

anthropocentric approaches to philosophy and politics” through the “deconstruction of the human” and the redefinition of humanity in terms of technology and ecology. John Loughlin, on the other hand, has gathered a fine set of essays designed to explain and defend the notion of human dignity in the Judaeo-Christian tradition. There is much to learn from considering them side-by-side.

Throughout Ferrando’s book there is a sustained rejection of the idea of species supremacy and a critique of such “universalizing” ideas as human reason and human nature. Throughout the text there is recurrent dismissal of the patterns of reasoning that have been so carefully developed and refined over the course of Western history, and in its place, recurrent praise for “genealogical” and “non-dualistic” forms of thinking like Taoism, Buddhism, Jainism, and Advaita Vedanta. These forms of thinking and explaining, she urges, produce a route “to access post-dualism” and “to overcome the rigid form of dualistic mindset that allows for hierarchical sociopolitical constructions” (p. 60).

In this book, however, one looks in vain for any complaint about practices like abortion, infanticide, or euthanasia. These Ferrando treats as practices that the new perspective brought about by transhumanism and antihumanism render plausible and even praiseworthy. Such blindness in morality is the price of losing respect for human nature, let alone for God.

One of Ferrando’s favorite targets is Cartesian dualism, and on this point Loughran and the authors he has assembled stand in complete agreement. There is a difference, however, in the reasoning. Where Ferrando takes dualism in principle as problematic and leverages her sweeping critique of Western thought on its repudiation, Loughran distinguishes between the forms of dualism that allow us to make genuine philosophical progress by being based in genuine differences among things and those forms of dualism that impose arbitrary distinctions and end up supporting the

sorts of racism and other forms of injustice of which Ferrando rightly complains.

What is particularly valuable in Loughran's introductory essay is his discussion of the way in which the very term "human dignity" has come to be thought of as the foundation of all rights ever since its use in documents like the United Nations' 1948 Universal Declaration of Human Rights. Noting that the drafters of the Declaration saw the utility of the notion of "dignity" in the international context and deliberately avoided trying to define it, Loughran shows that totally contradictory definitions of the term have subsequently been advanced and that individuals with quite incompatible political programs have employed the same word, with the mind-numbing results that one might expect when a crucial term is left vague or insufficiently defined. People use "dignity" arguments to defend both the life of the unborn and the right to terminate unborn human life. There is need for an objective and normative ground for distinguishing legitimate moral claims from those that are illegitimate.

In Loughran's view the origins of the concept of human dignity lie in a combination of the biblical stories of the creation found in Genesis with certain insights from Greek and Roman thought about the distinctiveness of human beings as capable of rationality and free choice. In particular, the biblical affirmation that man was created in the image and according to the likeness of God has historically been used to ground assertions of the metaphysical stature of humanity as a species, without ignoring the dark and negative sides of the human condition that arise from man's capacity for evil. What this approach makes possible is the assertion that there is a metaphysical dignity in each and every human being, even while recognizing that it is possible to lose one's moral dignity by one's wicked choices.

Reviewed by **Joseph Koterski, S.J., Ph.D.**  
(Philosophy, Fordham University)

## 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.*

Most of the significant legal developments in the last several months relate to the US Supreme Court. On May 28, 2019, the Court issued a long awaited ruling in [Box v. Planned Parenthood](#), which involved constitutional issues raised by Indiana's abortion laws. The case presented two issues: (1) whether a state may require health-care facilities to dispose of fetal remains in the same manner as other human remains, i.e., by burial or cremation; and (2) whether a state may prohibit abortions motivated solely by the race, sex or disability of the fetus and require abortion doctors to inform patients of the prohibition. The Court upheld the constitutionality of Indiana's law requiring the humane disposal of fetal remains. This is an important ruling; some lower courts have invalidated such laws, but the Court's ruling makes it far less likely that such challenges will succeed.

The Court declined to review the provision of Indiana law prohibiting abortions due to the race, sex, or disability of the unborn child. The Court explained that the Seventh Circuit (which had invalidated the Indiana law) was the first federal court of appeals to review such a law. Accordingly, the Court explained that it would "follow [its] ordinary practice of denying petitions insofar as they raise legal issues that have not been considered by additional Courts of Appeals."

Justice Thomas concurred and wrote a lengthy opinion exploring Indiana's "compelling interest in preventing abortion from becoming a tool of modern-day eugenics." Justice Thomas emphasized that the "decision to allow further percolation should not be interpreted as agreement with the decisions below. Enshrining a constitutional right to an abortion based solely on the race, sex, or disability of an unborn child, as Planned Parenthood advocates, would constitutionalize the views of the 20th-century eugenics movement. In other contexts, the Court has been zealous in vindicating the rights of people even potentially subjected to race, sex, and disability discrimination."

The Court's refusal to hear the case is not considered a ruling on the merits and so the fate of such laws is still uncertain. States have continued to enact such laws. Kentucky and Arkansas enacted such laws in the last few months although [the Arkansas law was held unconstitutional](#) by a federal court in July 2019.

The Court's refusal to consider the constitutionality of the Indiana law is a setback because the lower court's invalidation of the law remains in effect. The Court's action seems to indicate that the Court is not anxious to consider abortion cases.

Another Court decision likely reflecting the same sentiment was the Court's June 28, 2019 decision not to consider [Harris v. West Alabama Women's Center](#). In Harris, the Court declined to review a lower court ruling that had invalidated Alabama's ban on dismemberment abortions. Justice Thomas concurred in the ruling but noted—

This case serves as a stark reminder that our abortion jurisprudence has spiraled out of control. Earlier this Term, we were confronted with lower court decisions requiring States to allow abortions based solely on the race, sex, or disability of the child. Today, we are confronted with decisions requiring States to allow abortion via live dismemberment. None of these decisions is supported by the text of the Constitution. Although this case does not present the opportunity to address our demonstrably erroneous 'undue burden' standard, we cannot continue blinking the reality of what this Court has wrought.

There has also been other litigation dealing with the constitutionality of laws banning dismemberment abortions. Kentucky's statute was invalidated on May 10, 2019 and is now on appeal to the United States Court of Appeals for the Sixth Circuit. On July 17, 2019, [16 states filed an amicus brief](#) with the Sixth Circuit supporting the constitutionality of Kentucky's statute.

Many observers believe that the Court will address June Medical Services v. Gee in its next Term, which begins in October. June Medical Services involves the constitutionality of a Louisiana law requiring that abortionists have admitting privileges at local hospitals. In 2016, before Justices

Gorsuch and Kavanaugh joined the Court, the US Supreme Court invalidated a similar Texas law in Whole Woman's Health v. Hellerstedt. In September 2018, in the June Medical Services v. Gee case, the United States Court of Appeals for the Fifth Circuit [distinguished the Whole Woman's Health case and upheld the Louisiana admitting privileges law](#).

In January 2019, by a vote of 9-6, [the Fifth Circuit refused to rehear June Medical Services](#). The Fifth Court's ruling would have allowed the law to go into effect, but those challenging the constitutionality of the Louisiana law sought a stay of the ruling from the Supreme Court. On February 7, 2019, [the Court granted the stay while the Court decides whether to hear the case](#). The Court's decision was 5-4, with Chief Justice Roberts joining four Justices (Justices Breyer, Ginsburg, Kagan, and Sotomayor) who were in the majority in Whole Woman's Health. Chief Justice Roberts was in dissent in Whole Woman's Health. The dissenters were Justices Alito, Gorsuch, Kavanaugh, and Thomas. Chief Justice Roberts's vote to join Justices Breyer, Ginsburg, Kagan, and Sotomayor has led to much speculation about whether he will ultimately side with the Court's conservatives to limit or overrule Roe and Casey. It seems unlikely, though, that the Chief Justice will abandon the position he took in the Whole Woman's Health case.

Since my Winter/Spring column, the abortion clinic challenging the Louisiana law has filed its cert petition, which asks the US Supreme Court to review the case, and the state has filed a brief arguing that the Court should not hear the case.

The Court is likely to give full consideration to June Medical Services in its 2019-2020 Term. A decision will not likely come before June of 2020.

Given its reluctance to wade into the abortion issue, the Court does not seem likely to use the case as a vehicle to overturn Roe and Casey. The Court might affirm the lower court ruling by emphasizing the factual differences between the Texas and Louisiana laws, as did the Fifth Circuit.

If the Court considers June Medical Services or another abortion case, the Court may address whether to adhere to Roe and Casey. This involves, among other issues, whether the Court ought to adhere to precedent. Some of the Court's recent decisions in other areas have led to speculation that the Court will not follow Roe and Casey. For

example, on May 13, 2019 in [Franchise Tax Board v. Hyatt](#), the conservative majority (by a 5-4 vote) overruled *Nevada v. Hall* (which decided that states were not immune from suit in the state courts of other states). On June 21, 2019 in [Knick Township of Scott](#), the same majority overruled *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City* (which dealt with the takings clause). Both decisions came with impassioned dissents warning about other reversals that might be in the offing. Many observers have viewed the Court's decisions as signaling that it will not use the doctrine of *stare decisis*, the principle of deciding cases according to precedents, to shield *Roe* and *Casey* from overruling. A comparison of articles published by [LifeNews](#) and [Slate](#) provides an insight into how different sides view these reversals. In *Gamble v. United States*, which dealt with the double jeopardy clause, [Justice Thomas wrote an intriguing concurrence](#) that rejected the use of *stare decisis* to avoid overturning demonstrably erroneous precedent. Although no other Justice joined his concurrence, Thomas's opinion also fueled speculation about the possible reversal of *Roe* and *Casey*.

There continues to be a great deal of legislative activity dealing with abortion. States continue to push the envelope by enacting laws that are likely to be invalidated by lower courts. The lawmakers believe that the current Court might re-evaluate *Roe* and *Casey*. For example, Ohio passed a heartbeat law in April and Georgia did so in May. [The Ohio law was struck down by a federal district court judge in July](#). In May 2019, [Alabama passed a law banning almost all abortions](#). The law, which is being challenged in federal court, is not scheduled to go into effect until November.

In contrast, other states, such as New York, have recently adopted laws protecting the right to abortion throughout pregnancy. Illinois, which adopted the Reproductive Health Act on June 12, 2019, [is the latest state to adopt such a law](#).

One positive judicial development was the decision by the United States Court of Appeals for the Sixth Circuit [upholding Kentucky's ultrasound law](#).

Negative judicial developments (other than ones already noted) include the decision by the United States Court of Appeals for the DC Circuit [holding unconstitutional the Trump Administration's](#)

[policy of denying unaccompanied immigrant minors in custody access to abortion, and the Kansas Supreme Court decision finding that abortion is a fundamental right under the Kansas Constitution](#). For critical commentary on the Kansas decision, see [here](#).

There have also been a number of developments relating to efforts to defund Planned Parenthood. [The Trump Administration has issued rules that prohibit entities from receiving Title X funding if they run an abortion business at the same facility as their Title X-funded family planning organization](#). The rules would require organizations to separate their family planning and abortion operations, which Planned Parenthood is not willing to do. The rules are being challenged in court, but the Ninth Circuit has allowed the rules to go into effect pending the legal challenges. In addition, [the Trump Administration has withheld funds from the United Nations Population Fund](#), which has a record of supporting abortion.

States continue to consider laws legalizing assisted suicide. New Jersey and Maine have adopted such laws in recent months. Assisted suicide is also legal in California, Colorado, Hawaii, Oregon, Vermont, and Washington, and the District of Columbia. Physician assisted suicide is also legal in Montana due to a court decision.

An encouraging development relating to assisted suicide was [the decision by the American Medical Association to retain its opposition to assisted suicide](#). The views of major medical organizations often influence legislative debates on assisted suicide and so this development was most welcome.

There continues to be legal controversy about the HHS conscience rules. On May 2, 2019, HHS announced the issuance of the final rule protecting individual and health care entities from discrimination on the basis of their exercise of conscience in HHS-funded programs. The final rule has been challenged in court and [the Administration has agreed that the rule will not take effect until November](#).



## A Scholar's Analysis

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

In their essay “Doctors Have No Right to Refuse Medical Assistance in Dying, Abortion or Contraception,” Julian Savulescu and Udo Schuklenk make a case against allowing health care professionals the freedom to decline to perform controversial procedures. Savulescu and Schuklenk argue against the exercise of conscientious objection in part based on historical evidence from Ireland.

In the mid-twentieth century, some Irish doctors used symphysiotomy, a now obsolete surgery which splits the pubic symphysis, to relieve obstructed labor. Symphysiotomy can lead to horrible side effects for women, including incontinence, pain, and restricted mobility. According to Savulescu and Schuklenk, symphysiotomy was chosen instead of Caesarean section in part because “Catholic doctors believed that a Caesarean section might impede the woman’s ability to have the maximum number of children possible in the future.”<sup>1</sup> Savulescu and Schuklenk take the practice of symphysiotomy in mid-twentieth-century Ireland as damning evidence that Catholic belief and practice seriously harms women.

I’m skeptical. First, Catholic teaching is absolutely silent about symphysiotomy. The Council of Nicaea and the Council of Trent as well as the First Vatican Council and the Second Vatican Council say nothing about this medical procedure. Likewise, Henry Denzinger’s *The Sources of Catholic Dogma* makes no mention whatsoever of this method of relieving obstructed labor. A search of the Vatican website reveals not a single papal word about symphysiotomy from St. Peter through Pope Francis. Catholic teaching does not, therefore, express a preference for symphysiotomy over Caesarian section to relieve obstructed labor.

<sup>1</sup>Julian Savulescu and Udo Schuklenk, “Doctors Have No Right to Refuse Medical Assistance in Dying, Abortion or Contraception,” *Bioethics* 31.3 (March 2017): 162, doi: 10.1111/bioe.12288.

Second, if some Catholic doctors believed that it is wrong to impede a woman’s ability to have the most children possible, then these physicians were grossly ignorant. Catholic teaching and practice does not mandate, and has never mandated, maximal reproduction by women or by men. The vows of celibacy taken by priests and nuns rather severely hinder maximum reproduction, for example. The Church disapproves of polygamy, despite the fact that polygamy leads to more children than monogamy. The Church also calls its members to reserve sexual intercourse to within marriage, though both premarital sex as well as adultery would contribute to maximum reproduction. The Church further requires that couples who marry be mature enough to understand marital commitments although maximal reproduction would be fostered by allowing marriage for everyone no matter how immature. Following the explicit teaching of Jesus about divorce and remarriage (see Luke 16:18, Matt. 19.9), the Church does not allow a man to divorce his postmenopausal wife and marry a younger woman, though this remarriage would allow him to maximize his reproductive capacity. Likewise, a woman married to an infertile man may not divorce him and marry a fertile man, though doing so would allow her to have children. Finally, if the Catholic Church actually taught that people should have the maximum number of children possible, the Church would not endorse the use of natural family planning by married couples in order to avoid pregnancy.<sup>2</sup> The Church simply does not teach and never has taught that people must have the maximum number of children possible, and those who claim otherwise are exhibiting their ignorance.

In making their case against conscientious objection in medicine, Savulescu and Schuklenk also assert that “there is no requirement for a healthcare system to accommodate unprofessional behaviour.”<sup>3</sup> But is conscientious objection in fact unprofessional? Medical boards and medical associations determine accepted practice in medicine by establishing the standards about what counts as professional or unprofessional in the field of health care. Do these medical boards and associations consider conscientious objection unprofessional?

<sup>2</sup>*Catechism*, n. 2370.

<sup>3</sup>Savulescu and Schuklenk, “Doctors Have No Right,” 163.

Not at all. Savulescu and Schuklenk themselves point out that “conscientious refusal to provide contraception is common and mistakenly supported by medical boards and medical associations (see for instance recent Australian reports).”<sup>4</sup> Indeed, inasmuch as medical boards and medical associations permit conscientious objection, if put into practice, it is Savulescu and Schuklenk’s *denial* of rights to conscientious objection that would violate established professional codes.

Savulescu and Schuklenk rightly reject ethical relativism. But they mistakenly think that conscientious objection presupposes ethical relativism: “Part of the force behind respecting conscientious objection is a common commitment to ethical relativism: if that is what someone believes, then they are right to believe it, and that alone makes it a kind of truth.”<sup>5</sup>

Some ethical relativists might also be conscientious objectors, but certainly many other conscientious objectors reject ethical relativism. Indeed Savulescu and Schuklenk focus attention on religious conscientious objectors, such as Catholics, but they do not seem to understand that Catholics reject ethical relativism. Pope St. Paul VI put the point this way: “Far be it from Christians to be led to embrace another opinion, as if the Council taught that nowadays some things are permitted which the Church had previously declared intrinsically evil. Who does not see in this the rise of a depraved moral relativism, one that clearly endangers the Church’s entire doctrinal heritage?”<sup>6</sup> In *Veritatis splendor*, Pope St. John Paul II pointed out, “The moral theologian must therefore exercise careful discernment in the context of today’s prevalently scientific and technical culture, exposed as it is to the dangers of relativism, pragmatism and positivism.”<sup>7</sup> Just before his election as Pope Benedict XVI, Joseph Cardinal Ratzinger, warned about the “dictatorship of relativism.” And Pope Francis said, “In many places, the problem is more that of widespread indifference and relativism, linked to disillusionment and the crisis of ideologies which has come about as a reaction to any-thing which might appear totalitarian. This not only harms

the Church but the fabric of society as a whole. We should recognize how in a culture where each person wants to be bearer of his or her own subjective truth, it becomes difficult for citizens to devise a common plan which transcends individual gain and personal ambitions.”<sup>8</sup> In sum, Catholic belief rejects relativism.

How does conscientious objection fit with a rejection of relativism? Quite easily. If it is objectively wrong to intentionally kill an innocent human being, then a properly formed conscience accepts this truth, and the morally just person acts in accordance with it. Moreover, part of an objectively true moral code is that we should respect other individuals, and this involves respecting their conscientious decisions. St. Thomas Aquinas taught an agent ought to obey even an erroneous conscience.<sup>9</sup> For if a person acts against her conscience, that person is acting against her best understanding of the truth, and thereby is acting against the good as she understands it. Of course, we have a serious duty to form our consciences properly, in accordance with the truth. Moreover, obeying an erroneous conscience does not mean a freedom from wrongdoing, if the reason we have an erroneous conscience is due to our own culpable ignorance. If we could have known the truth and should have known the truth, but failed to know the truth, we are responsible for our failure to form our consciences properly. Conscience does not create truth *ex nihilo* from subjective inclinations. Conscience, properly formed, reflects the truth of the created order established by God.

Savulescu and Schuklenk argue that conscientious objectors are inconsistent. If abortion really is the unjust killing of an innocent human being, then conscientious objectors not only should refuse to perform abortions but also should refuse to refer patients for abortions.<sup>10</sup> In this Savulescu and Schuklenk are right. The view that conscience objectors may decline to perform abortions themselves but must direct their patients to those who will give them abortions is indeed problematic. But then Savulescu and Schuklenk continue: “If the practice [of abortion] is evil, the individual should

<sup>4</sup>Ibid.

<sup>5</sup>Ibid., 167.

<sup>6</sup>Paul VI, “Address to Members of the Congregation of the Most Holy Redeemer, (September 1967),” *AAS* 59 (1967): 962, author’s translation.

<sup>7</sup>John Paul II, *Veritatis splendor* (August 6, 1993), n. 112.

<sup>8</sup>Pope Francis, *Evangelii gaudium* (November 24, 2013), n. 61.

<sup>9</sup>Thomas Aquinas, *Summa theologiae* I-II.19.5.

<sup>10</sup>See Savulescu and Schuklenk, “Doctors Have No Right,” 168.

not be any part of it, even by being a member of that specialty or profession. If a doctor views abortion as an evil, she should not be a gynecologist or GP.”<sup>11</sup> This conclusion overreaches. Many politicians do evil acts such as lying to constituents. So should we conclude that a person who views lying as evil should not be a politician? Many teachers give students grades that they did not earn. If we hold that the practice of grade inflation is evil, must we also hold that we should not be any part of it, even by being member of that profession? In all professions—the legal, the military, the medical—some people do immoral acts. Indeed particular professions seem to have proclivities for particular kinds of evil acts. Abraham Lincoln once remarked to a young man aspiring to be a lawyer that, “if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave.”<sup>12</sup> But of course an individual could also be an honest lawyer. Abortion doctors should no more drive people from the medical practice than dishonest lawyers should drive people from the legal practice. Both law and medicine need more honest and just practitioners.

Elsewhere Savulescu and Schuklenk’s misunderstanding of Christian belief weakens their argument. For example, they worry that people who view the practice of medicine as their calling “have a higher power that they are serving first in their medical practice, their vocation, which has taken away their freedom to make informed choices. That makes a mockery of their graduation promise to serve the patient interest first and foremost: their understanding of their vocation will always take priority.”<sup>13</sup> Christians believe that God does not take away a person’s freedom to make informed choices but rather that God gives human beings the gift of free choice. A calling to medicine, like an invitation to marriage, can be declined. Indeed a vocation from God *presupposes* freedom. It makes no sense to call someone to do some action if that individual has no freedom to do that action. Moreover, service to God, properly understood, is not in opposition to love of

neighbor. Indeed, at least in the Catholic tradition, love of God and love of neighbor are inextricably connected: “If any one says, ‘I love God,’ and hates his brother, he is a liar; for he who does not love his brother whom he has seen cannot love God whom he has not seen. And this commandment we have from him, that he who loves God should love his brother also” (1 John 4:20–21). Surely, *pace* Savulescu and Schuklenk, doctors do not promise to serve their patients’ interest first and foremost, as if patients were more important to doctors than their own spouses or their own children—or, in the case of believers, more important than serving God. As Bishop Robert Barron points out, the noncompetitive transcendence of God ensures that genuine service to God is not in opposition to genuine service to neighbor and that God’s freedom and our freedom are not in competition.<sup>14</sup>

In sum, Savulescu and Schuklenk’s arguments against conscientious objection are weakened by their ignorance of what conscientious objectors, both secular and religious, believe. Catholic beliefs and practices, in particular, are repeatedly misrepresented, caricatured, and maligned. In Savulescu and Schuklenk’s essay, the straw man fallacy—perhaps more accurately, the straw believer fallacy—appears again and again.<sup>15</sup>

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Please begin to think about items for next issue, which will come out over the summer. 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 Fall 2019 issue by November 15<sup>th</sup>. Any contributions should be sent to [provita.editor@gmail.com](mailto:provita.editor@gmail.com).

<sup>11</sup>Ibid.

<sup>12</sup>Abraham Lincoln, *Collected Works*, vol. 2 (New Brunswick, NJ: Rutgers University Press, 1953), 82.

<sup>13</sup>Savulescu and Schuklenk, “Doctors Have No Right,” 169.

<sup>14</sup>Robert Barron, *2 Samuel*, Brazos Theological Commentary on the Bible (Grand Rapids, MI: Brazos Press, 2015), xxi.

<sup>15</sup> A longer version of this essay is forthcoming in the *National Catholic Bioethics Quarterly*.

## Web Resources for research and education

<b><i>Life and Learning</i></b> The Journal of the University Faculty for Life		<a href="http://uffl.org/pastproceedings.html">http://uffl.org/pastproceedings.html</a>
<b>UFFL Blog</b>		<a href="http://www.uffl.org/blog/">http://www.uffl.org/blog/</a>
<b>Member web pages and blogs</b> Please forward any other member's web pages to <a href="mailto:provitanews@yahoo.com">provitanews@yahoo.com</a> .		
Beckwith, Francis	<a href="http://www.patheos.com/blogs/returntorome/">http://www.patheos.com/blogs/returntorome/</a>	
Colosi, Peter	<a href="http://peterjcolosi.com/">http://peterjcolosi.com/</a>	
Lemmons, Rose Mary Hayden	<a href="http://courseweb.stthomas.edu/rmlemmons/">http://courseweb.stthomas.edu/rmlemmons/</a>	
Smith, Janet E.	<a href="http://www.janetsmith.org/">http://www.janetsmith.org/</a>	
Bachiochi, Erika	<a href="http://bachiochi.com/erika/">http://bachiochi.com/erika/</a>	
<b>Conferences</b>		
Cardinal O'Connor Conference on Life	<a href="http://www.oconnorconference.com/home/">http://www.oconnorconference.com/home/</a>	Held in conjunction with the annual March for Life in January.
Notre Dame Center for Ethics and Culture Fall Conference	<a href="http://ethicscenter.nd.edu/programs/fall-conference-videos">http://ethicscenter.nd.edu/programs/fall-conference-videos</a>	Held in November
Prolife World Congress	<a href="http://www.prolifeworldcongress.org/">http://www.prolifeworldcongress.org/</a>	The most recent Congress took place in Guatemala in October 2016. The site is in Spanish.

<b>Online resources</b>		
Academia.edu	<a href="https://www.academia.edu/">https://www.academia.edu/</a>	A place to share research.
Bad Cripple Blog: A Resource for Pro-lifers	<a href="http://www.badcripple.blogspot.com">http://www.badcripple.blogspot.com</a>	A blog written by William Peace, Ph.D., who advocates for the rights of the disabled.
Before Roe v. Wade: Voices that Shaped the Abortion Debate Before the Supreme Court's Ruling (2d edition, 2012)	<a href="http://documents.law.yale.edu/before-roe">http://documents.law.yale.edu/before-roe</a>	“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.”
Culture of Life Foundation	<a href="http://www.cultureoflife.org/">http://www.cultureoflife.org/</a>	Complex moral issues made simple
Global Health and Human Rights Database	<a href="http://www.globalhealthrights.org/">http://www.globalhealthrights.org/</a>	“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.”
Human Life International Truth and Charity	<a href="http://www.truthandcharityforum.org/">http://www.truthandcharityforum.org/</a>	“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.”
Mirror of Justice	<a href="http://mirrorofjustice.blogs.com/">http://mirrorofjustice.blogs.com/</a>	A blog dedicated to the development of Catholic legal theory.

Social Science Research Network (SSRN)	<a href="http://ssrn.com/en/">http://ssrn.com/en/</a>	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	<a href="http://usccb.org/issues-and-action/human-life-and-dignity/index.cfm">http://usccb.org/issues-and-action/human-life-and-dignity/index.cfm</a>	United States Conference of Catholic Bishops
Witherspoon Institute Public Discourse	<a href="http://www.thepublicdiscourse.com/">http://www.thepublicdiscourse.com/</a>	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	<a href="http://www.wecareexperts.org/">http://www.wecareexperts.org/</a>	International research collaboration, Scientific information dissemination, Professional education, Consultation, Expert testimony, Program evaluation, Grant writing
<b>Journals and online publications</b>		
Charlotte Lozier Institute (Susan B. Anthony List)	<a href="http://www.lozierinstitute.org/">http://www.lozierinstitute.org/</a>	The education and research arm of the Susan B. Anthony List
Ethika Politika	<a href="http://ethikapolitika.org/">http://ethikapolitika.org/</a>	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	<a href="http://www.humanlifereview.com/">http://www.humanlifereview.com/</a>	
Linacre Quarterly	<a href="http://cathmed.org/issues_resources/linacre_quarterly/">http://cathmed.org/issues_resources/linacre_quarterly/</a>	Journal of the Catholic Medical Association.
Post-Abortion Review	<a href="http://www.theunchoice.com/pblresearch.htm">http://www.theunchoice.com/pblresearch.htm</a>	“Documents abortion's injustice and harm to women”

## Organizations

<p>Bioethics defense fund</p>	<p><a href="http://www.bdfund.org/">http://www.bdfund.org/</a></p>	<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>
<p>Catholic Medical Association</p>	<p><a href="http://cathmed.org/">http://cathmed.org/</a></p>	
<p>Center for Bioethics and Human Dignity</p>	<p><a href="http://cbhd.org/">http://cbhd.org/</a></p>	<p>“The Center for Bioethics &amp; 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.”</p>
<p>Feminists for Life</p>	<p><a href="http://www.feministsforlife.org/">http://www.feministsforlife.org/</a></p>	
<p>Healing the Culture</p>	<p><a href="http://healingtheculture.com/">http://healingtheculture.com/</a></p>	<p>Promotes the Life Principles of UFFL co-founder Robert J. Spitzer, SJ.</p>
<p>The International Center on Law, Life, Faith and Family (ICOLF)</p>	<p><a href="http://icolf.org/">http://icolf.org/</a></p>	<p>“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.”</p>

National Catholic Bioethics Center	<a href="http://www.ncbcenter.org/">http://www.ncbcenter.org/</a>	Publishes the <i>National Catholic Bioethics Quarterly</i>
Prolife Center at the University of St. Thomas	<a href="http://www.stthomas.edu/law/academics/prolifecenter/">http://www.stthomas.edu/law/academics/prolifecenter/</a>	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	<a href="http://catholicsocialscientists.org/Content/Organization/">http://catholicsocialscientists.org/Content/Organization/</a>	
<b>News</b>		
Bioedge	<a href="http://www.bioedge.org/">http://www.bioedge.org/</a>	Bioethics News around the world
National Right to Life News	<a href="http://www.nationalrighttolifenews.org/news/#.Sp5dWSo">http://www.nationalrighttolifenews.org/news/#.Sp5dWSo</a>	
LifeNews.com	<a href="http://www.lifenews.com/">http://www.lifenews.com/</a>	
LifeSiteNews	<a href="http://www.lifesitenews.com/">http://www.lifesitenews.com/</a>	
<b>Anti-life resources</b>		
Guttmacher Institute	<a href="http://www.guttmacher.org/">http://www.guttmacher.org/</a>	Research arm of Planned Parenthood Federation. <a href="#">Guttmacher Policy Review</a> <a href="#">Perspectives on Sexual and Reproductive Health</a> . <a href="#">International Perspectives on Sexual and Reproductive Health</a>
RH Reality Check	<a href="http://rhrealitycheck.org/">http://rhrealitycheck.org/</a>	Reproductive and Sexual Health and Justice News, Analysis and Commentary



## Masthead

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