JURISPRUDENCE AND THE CULTURE OF LIFE

Panel at the Fifth Global Convocation of Christian Lawyers, "Redeeming Law: Christian Calling and the Legal Profession," Washington, D.C., October, 2008

MODERATOR: JANET EPP BUCKINGHAM

Let's get underway for the next session. I'm Janet Epp Buckingham. I'm an academic from the "evil empire" – Canada. We're speaking here on pro-life issues, and Canada is distinct among western countries – it has no laws regulating abortion. So we truly are the "evil empire" on this issue as well as some other ones that have been mentioned earlier.

These experts that we have with us are actually doing proactive work internationally and within their own countries. We're looking forward to hearing how this issue is making progress. I'm hopeful that we're going to hear about how this issue is making progress in some parts of the world. I'm going to invite Professor Teresa Collett, whom we've heard from a couple of times in interventions over the past day, to speak first. I know that she has expertise in many different areas, but she has been asked to speak specifically here about the international realm. Welcome.

SPEAKER: PROFESSOR TERESA S. COLLETT[1]

Good morning. I appreciate you all being here. This is an area that, as many of you know, I feel called to. It is something that God has laid upon my heart – the promotion and protection of human life. Until fairly recently, I was primarily involved in the domestic aspects of this. I am increasingly having opportunities to be involved at the international level. What I'd like to do is lay out a roadmap for us this morning. I'll begin with a discussion of the domestic situation in the United States and then expand upon that by moving to the situation in the international forums.

Let me begin with a quick and cursory history that most of you are already very well familiar with in the United States. Of course abortion on demand was not a question in this country until the 1970s when the United States Supreme Court took a case from the state of Texas where a woman had been convinced by her lawyers to assert that she was raped. We now know that that was not true and that, in fact, the challenge to the law was largely fabricated as a hypothetical.

Nonetheless, in this particular case, a woman known as Jane Roe sought to challenge the Texas law that prohibited abortions with the sole exception of the life of the mother. The Court took the case and Justice Blackmun, writing for the majority and having spent the summer in my current home state of Minnesota at the Mayo Clinic, crafted a judicial opinion that is remarkable only in its lack of legal foundation

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[1] A passionate advocate for the protection of human life and the family, Professor Collett (J.D. University of Oklahoma College of Law) is a nationally sought-after speaker on the topics of marriage, religion, and bio-ethics. She is currently serving as professor of law at the University of St. Thomas School of Law. Professor Collett has published numerous legal articles and is the co-author of a law casebook on professional responsibility and co-editor of a collection of essays exploring "catholic" and "Catholic" perspectives on American law. She is an elected member of the American Law Institute, and has testified before committees of the United States Senate and House of Representatives, as well as before legislative committees in several states. More recently she represented Congressman Ron Paul and various medical groups in the defense of the federal partial-birth abortion and has also represented the Governors of Minnesota and North Dakota before the U.S. Supreme Court in defending the requirement of state parental involvement prior to performance of an abortion on a minor. She has served as special Attorney General for the States of Oklahoma and Kansas, as well as assisting other state Attorneys General in defending laws protecting human life and marriage. Prior to joining St. Thomas in 2003, Professor Collett taught at the South Texas College of Law where she established the nation's first annual symposium on legal ethics.

and its inaccurate reading of history – both world history and American history.

In that case, Justice Blackmun struck down not only the Texas statute, but, by implication, the statutes in every other state that regulated abortion. Blackmun based his decision on a reading of the historical record of mankind that shows abortion is something that was not prohibited in law until fairly recently. He stated that the American prohibitions of abortion simply reflected a concern for maternal health. Blackmun was persuaded by a medical brief filed in the case that stated abortion was good for women and actually safer than childbirth. This is a great myth and one that we continue to combat to this day.

Having concluded that abortion was safe for women, Justice Blackmun went on to conclude that, within the Fourteenth Amendment liberty clause, a woman had a constitutionally protected right to terminate her pregnancy after consultation with her doctor – another myth that we will return to in a moment. Therefore, Justice Blackmun struck down the law and expressly rejected the State of Texas's argument that the law was aimed at protecting the unborn child. Here, Blackmun confused the question of constitutional personhood and the humanity of the unborn. As the American lawyers here know, there are human beings that are inarguably human who simply are not within the jurisdictional protection of the United States Constitution. Last night, I gave the example of an Argentinean woman standing on Argentinean soil who is protesting American military actions. The U.S. Ambassador, also standing on Argentinean soil, says to her, "Shut up, and if you don't stop talking I'm going to have my bodyguard shoot you." In America, that would be a violation of free speech, among many other things. But because they are on Argentinean soil and the object of this ridiculous and repulsive act is an Argentinean national, there would be no constitutional question involved. Certainly there would be legal, international, and treaty questions involved, but they would not be questions of American constitutional law because, frankly, the Argentinean woman is not a constitutional person for purposes of constitutional protection.

That being said, the question becomes: Why would the child within the womb of an American woman, standing on American soil, often conceived on American soil, not be within the protection of the Constitution? Justice Blackmun does not address that question in his rather slipshod analysis.

Fast-forward thirteen years, we see the apex of this jurisprudence of death in *Thornburgh v. American College of Obstetricians and Gynecologists*. In that particular case, the United States Supreme Court

struck down a law that simply provided that when a woman was having an abortion at a point in the pregnancy that the child might be viable, a second physician must be present, absent an emergency, in order to preserve the life of the child should the child be born alive. The Court found that this provision required a trade-off between the woman's health and the child's life and therefore the law was unconstitutional. Thankfully, the United States Supreme Court, in *Casey*, repudiated that opinion and said that we have gone too far in failing to acknowledge the state's legitimate interest in the promotion and protection of what the Court continues to call "potential human life."

Many pro-life advocates were very excited by the *Casey* opinion, notwithstanding its grandiose philosophical pronouncements on the "mystery of life." We were encouraged because we could at last begin to enact, and expect to have upheld, a regulatory scheme for the practice of abortion. Those hopes were somewhat dampened by the Court's opinion in *Stenberg v. Carhart* – the first partial birth abortion case. I was directly involved in that case. I was counsel of record on the medical brief that Justice Kennedy relies extensively upon in his dissent. In the case, the United States Supreme Court held that Nebraska could not prohibit this barbaric practice because the Constitution mandated the availability of what is called "D & X," or partial birth abortion. This is a particularly remarkable opinion in light of the fact that not a single expert witness testifying for the plaintiff in this case had ever performed a D & X. In fact, the only physician appearing in the case who had ever performed a D & X was the plaintiff, and he himself could not identify a single instance in which the use of that procedure was necessary to preserve the woman's health.

Notwithstanding this fact, the Court was absolutely convinced access to the procedure was necessary to protect women's health – evidence be damned. Therefore, it struck down the Nebraska partial birth abortion ban. Thankfully, showing the importance of a Presidential administration, Congress passed, and it was finally signed into law, the federal partial birth abortion ban. However, they were very careful to develop an extensive Congressional record of evidence and, in *Gonzales v. Carhart*, the Bush administration took the issue all the way to the Supreme Court. In that case, the United States Supreme Court, in a bitterly divided opinion, upheld the federal partial birth abortion ban and stated that it was appropriate in this instance to defer to the Congressional judgment as to what was the true weight of the medical evidence.

Not to minimize the importance and the goodness of the opinion itself, what's particularly interesting in that case is the dissent of Jus-

tice Ginsburg. In her dissent, she provides insight into what is driving the abortion rights movement as well as the general culture of death. I would summarize these in three values. The first value concerns women's equality based on an androgynous concept of human sexuality. Notwithstanding Justice Ginsburg's comments in *United States v. Virginia* (known as the "VMI case") about appreciation of the inherent differences between men and women, Annie Oakley got it right in Justice Ginsburg's opinion – "anything you can do, I can do better; anything you can do, I can do too." According to this idea of women's equality, the only difference between men and women is a matter of equipment, and we should often disregard that difference. I'll return to this falsehood in a moment.

The second value is based on safety. This is the myth that is driving the international and foreign courts to embrace abortion on demand, or at least to reduce the scope of prohibitions on abortion. They have accepted the myth that abortion actually is necessary in order to reduce maternal mortality – in order to reduce the number of women who are dying throughout the world in the process of pregnancy and giving childbirth. It is remarkable that when you challenge this presupposition and note that Ireland – which has one of the most restrictive abortion laws in Western Europe -- has one of the best maternal mortality and morbidity rates, advocates for the safety argument stand dumb. Maternal mortality and morbidity actually is improved when you have assistance in childbirth and comprehensive prenatal care. It is not advanced by abortion.

Finally, the third value abortion advocates assert is autonomy. In fact, Justice Ginsburg makes this very clear in her statement that "legal challenges to undue restrictions on abortion procedures do not seek to vindicate some general notion of privacy, rather they center on the woman's autonomy to determine her life's course and thus to enjoy equal citizenship and stature." In other words, *Casey* revisited – it's all about my right to do whatever it is that I believe will fulfill me, independent of the temporal reality.

So these themes – sexual equality, safety, and freedom found throughout the numerous precedents of the Court, form the basis of the continuing campaign in this area. What has been the pro-life response to that so far? Typically, at least in the States, the response has been reliance on three alternative values: (1) protection of human life, (2) protection of the family (the natural family), and (3) protection of faith.

Frankly, I think these values (or at least the last two) do not resonate in contemporary America beyond the group of conservative be-

lievers. In my bioethics class, we were just talking about the abortion decision and working through the bioethical principles in this case. Having watched *Life's Greatest Miracles*, a PBS special available on the internet, the students came to realize that there is no real issue of whether that being within the woman is human. Not only is it clearly human; it is clearly a human being. There is less and less serious debate on the medical and biological status of that which is within the woman. The medical evidence is now overwhelming that it is a self-organizing human organism that, absent interference, will grow and develop into not only a human child, but ultimately a human adult. It is only interference in that process that will stop that organism from developing through the stages of childhood to adult. Even Camille Paglia, a political theorist, has confessed that the abortion debate really isn't about the "human beingness" of that which is within the woman; it is about what moral and legal status we are going to attribute to that being or thing within the woman.

The Eighth Circuit's recent en banc opinion upholding the South Dakota informed consent law is most encouraging. The court found that South Dakota could constitutionally require abortion providers to tell a woman prior to an abortion that the abortion ends the life of a separate, unique human being. That opinion also noted that Planned Parenthood, the plaintiff in the case, had presented, and I quote, "no medical evidence to the contrary." It simply is beyond dispute as to the medical status of that which is within the woman. That which is within the woman can now be named. It is a human being.

So, given that, the abortion debate really is dominated by our ideas of equality, freedom, and safety. That there is a life in a pregnant woman is really not an effective argument, but it is a necessary argument. We must continue to make it in the public forum, but it's really not the heart of the dispute anymore. Frankly, younger American generations experience family in a way far more ambivalent than the experience that we would hope that they would have. When over thirty percent of all children in this country are born into fatherless homes, it is hard to build a public policy upon the idea of the healthy and divinely — inspired concept of family. It simply does not resonate with that mushy middle, that undecided group. Therefore, as a public policy argument, we are failing dreadfully. Faith is an idea that is deeply personalized. I believe in God, you believe in Allah, she believes in Confucius – we're all the same, why can't we just all get along? Faith will not motivate those who are undecided on abortion.

So what do we need to do? We need to reformulate. We need to reformulate into three different values that are very closely related and

deeply responsive to the agenda of the culture of death. I would suggest that this is first: a robust concept of maternal fetal health. The medical evidence is out there. We need to bring it to light and show that abortion hurts women and increases the risk of breast cancer. If you looked at the medical standards, you would see that the linkage of abortion and breast cancer is far more secure and far less ambivalent than the linkage between secondhand smoke and cancer among nonsmokers. Yet there are bans on smoking in public places throughout the United States. It is simply a matter of political will as to what you believe.

In addition, there is a continuing accumulation of evidence that abortion reduces fertility in women and increases the number of preterm births. Pre-term births, of course, lead to severe disabilities because the children have not had adequate gestational time within the mother's womb. So, regarding maternal and fetal health, we need to get the medical evidence out there and make the argument that abortion is not good for women.

The comparison between abortion and childbirth is a false comparison. The Center for Disease Control in this country only looks for complications six months after abortion and one year after childbirth. These are not equivalent standards measurement. As a matter of science, the comparison is incorrect.[2]

Second, we need to replace the concept of this false equality based on androgyny with the concept of mutual respect of the sexes. The South American countries still have a culture which understands that there is a glory and a benefit in the differences between men and women. Annie Oakley did not live in South America. However, there is also a strong tradition in the United States, as Governor Palin shows, of women who are, if you will, "Americanizing" the concept of different but equal. The pioneer women were such women – women who stand by their men, and when their husbands are driving cattle up to Kansas City, they take the rifle off the fireplace, grab their Bibles, and stand guard over their families just like anybody else. They have just as good of a shot as their menfolk, too.

The idea that we are different, that we celebrate our differences, and that we hold our rifles with our skirts on is something that we must recapture. There's a complementary relationship between the sexes that not only must be tolerated, but also must be celebrated. It

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[2] Some of the changes in the measures used by the CDC are described in CDC, Maternal Mortality and Related Concepts (2007) at http://www.cdc.gov/nchs/data/series/sr_03/sr03_033.pdf.

must be celebrated in the context of mutual respect, meaning women need access to education and should not be denied opportunities to use their gifts and talents in the public square. It does not mean, however, that we are the same.

Finally, I would suggest instead of the current concept of freedom, which looks a lot like isolation in the abortion debate, we need to communicate that we are relational creatures. This is a very powerful concept, especially outside of this country, and a very important component of the human person. In fact, we exercise our freedom not in isolation, but in community. This is evidenced by the Genesis story. Why was it that Eve was created? God tells us it is not good for man to be alone. And what is Adam's first response? This is flesh of my flesh, and bone of my bone. It is a response of delight to be entering into community with that which is different and yet still made in the divine image. We need to promote the idea that freedom is exercised in the context of community, and within that community, the child is a member that must also be considered. Thank you very much.

MODERATOR: JANET EPP BUCKINGHAM

Our second speaker is Professor Santiago Legarre from Universidad Católica Argentina. He is going to speak to us from his perspective as an Argentinean about what's going on in his country.

SPEAKER: PROFESSOR SANTIAGO LEGARRE[3]

Well, thank you, Janet, for the presentation. I want to thank Bob Cochrane and Pepperdine Law School for making my presence here possible. I would also like to thank Mike Schutt and Regent University, who were instrumental to my being here. I see the Dean of the law school here – thank you. Lastly, I want to thank Advocates International and the Christian Legal Society and their staffs for everything. It is my first time here and my first contact with both Advocates International and the Christian Legal Society.

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[3] Professor Legarre received his training at the University of Oxford (M.St. 2004), Universidad de Buenos Aires (Ph.D. 2003), and Univesidad Católica Argentina (LL.B. 1991), where he graduated first in his class. He is a Professor of Law at Universidad Católica Argentina and a researcher of the Argentine Council for the Humanities (CONICET). He has also been a visiting professor at the Paul M. Herbert Law Center, Louisiana State University. He was a law clerk for the Argentine Supreme Court from 1992-94. Professor Legarre has written extensively on both Argentine and American constitutional law.

When I got the e-mail explaining that the organizers would prefer that our panel presentations not be strictly academic but rather have more of a testimonial edge, I found myself a bit uncomfortable because I am indeed, or try to be, an academic. Because I am more academic, I thought, "Well, I'll have to invent something to give it a more testimonial kind of edge." Yesterday when I was listening to Kwame Frimpong, the Dean of his law school in Ghana – he was reading some e-mails or letters from students that had to do more or less with what brings us together here – I thought, "I have an e-mail that I could share, and the folks here might enjoy listening to it." So I retrieved it and have it for you. It's from a third year law student at Louisiana State University. He sent me this after some conversations we had while I was teaching a short comparative constitutional law class there. After our conversations, I gave him a copy of a book called *The Faith Explained*, and he started reading it. The condition was that I would read a book by the Dalai Lama, which I did. I said to him I liked most of what the Dalai Lama says, but I wonder how you can do those things without Jesus' grace. So here was the e-mail he sent to me a couple of months ago. I will read just bits.

> Hello Santiago. I apologize for not writing for so long but now I have a lot to talk about. I have been having an incredible run of good fortune recently. Is it a coincidence it occurred at the same time I started believing in God? For example, last Thursday I graduated from law school. On Friday, I finally got that new car I told you I wanted. On Monday, I got an offer of employment with a law firm.

Then he says, "This may sound horrible to you but I have developed the most faith by going to the casino." You know, God uses all sorts of things.

> In the last month, I have started telling all my friends that I believe in God and telling them that they would be better off having faith. I have gone to the casino about once a week for the last month, the whole time selfishly believing that God could help me if He wanted to, and I have won about twelve hundred dollars. Even my friends are starting to believe.

This is really the best part, and it's one you won't laugh at, but will ponder much. "I think more and more that God has a plan for all of us. And I believe part of His plan for you was to lead me to Him. I would thank you for this, but I would think you would agree that God deserves all the credit." This is what it means to be an instrument. And then he ends up with a nice joke. He says,

> Please let me know how things are going. It's hot as hell in Baton Rouge but probably real nice where you're at. At the pace I've been going at the casino, it won't be long before I can visit Argentina. But I guess I shouldn't rely on God's plans for me to win at Blackjack 21 too much. I better watch out – it could be the devil slipping me all those aces. Just kidding.

Now, on a slight testimonial note, I'll share with you a conversion that is not a religious one – otherwise I would be too shy to share it so easily. When I was preparing my talk, I got another e-mail that I'd like to share with you. It's very different and will probably make you sad. I got it when I was making this reflection: I'm going to talk to a crowd of people in which there will be perhaps a few pro-life activists.

I started to think about some pro-life activist friends of mine in Argentina. I did not see myself as a pro-life activist. A pro-life academic, yes, but not an activist. From those friends of mine, the impression I always got was that they had this kind of conspiracy theory about what was happening on the other side of the fight – this real divide that I was well aware of. When they told me the enemy was well organized, and financed, and working hard for their agenda, and they did this and they did that, etc., I always listened. I understood, but I always thought there was a lot of exaggeration there.

Around a month ago, I got an e-mail from an Argentine friend who studied at any Ivy League law school in the United States. He received an LL.M degree there. They have this kind of league of alumni of this top university that I won't mention, but it's the number one in the U.S. News & World Report rankings. He gets this e-mail. He is not pro-life, but he's certainly not with all these guys in the other camp. He's indifferent, so to speak, but he knows very well what I care for. He sends to me this e-mail saying, "You probably will want to have a look at this." The email is from a Mexican woman apparently to all the former students of this American law school.

> Dear Friends, I am glad to inform you that the Mexican Supreme Court decided yesterday that Mexico City abortion laws are constitutional. Women in this country have then the possibility of asking for a termination of their pregnancy said the city's hospital network during the first twelve weeks. They receive counseling, and they make the decision on their own with no need to obtain the consent of others. Thanks for your interest in the debate over the past months, for the documents you have sent me, and for your kind disposition to discuss with me many of the points under analysis.

Then he sent me other e-mails I didn't bring. I felt a bit uneasy about reading this in public, but I guess he sent it to me knowing that I would do this kind of thing. I was alerted then to the fact that things were much closer to how my fundamentalist, fanatical friends thought than what I thought they were. These people are actually much more organized and have much more money, which comes mostly from this country, than I would have thought.

While in the United States three or four days ago, this same person drew my attention to a web page, an Argentine web page, called www.despenalizacion.org.ar – it's in Spanish. Translated this would be Decriminalization.org.ar. It's basically where they show their strategy to decriminalize abortion in Argentina. Where they say who they are, they say they are a bunch of people who care for life and they make a pro-life argument for abortion because they know that's the only way to have it in a part of the world like mine for the reasons I will explain.

I will explain such reasons by addressing the way Human Rights Watch sees abortion laws in my part of the world. It says Latin America is home to some of the most restrictive abortion laws in the world – this is from its web page – and the quotation continues, but I don't have enough time to read it. Sam Ericsson said in one of the keynote speeches that it's good to have people who report, like Human Rights Watch, but we need to do something else. However, I'm not sure that Human Rights Watch limits itself to reporting because it says things like the following on abortion:

> Fortunately, the first few years of the twenty-first century have shown some encouraging signs due in large part to the tireless efforts of women's rights activists. In other countries in South America, positive developments also may be imminent. In Argentina and Venezuela, as well as in other countries, bills seeking to decriminalize abortions in some or all cases are pending in the respective legislatures.

So I would be a bit wary about saying Human Rights Watch merely reports. Although there's a lot to be said for the work that Human Rights Watch does, with regard to marriage, life, and other hot topics, they don't seem to be neutral or objective.

After sharing with you this sort of conversion, I would also like to share with you that I would cherish a more civilized defense of pro-life interests and pro-life causes than the one I sometimes see from some pro-life activists. I say this with full respect for everyone who is engaged in this fight. The scene in the movie *Juno*, that perhaps some of you have seen, is an example of what I cherish. In the movie, Ellen

Page, a pregnant sixteen-year-old junior in high school, calls an abortion clinic and says that she wants to procure a hasty abortion. She goes to the clinic where there is a girl protesting at the gates of the clinic and shouting, "All babies have a right to be born! All babies have a right to be born!" Juno greets the girl, Su-Chin, and they have a short conversation. Basically, it seems quite clear that Juno couldn't care less of what Su-Chin is shouting. In fact, she probably thinks she's a simpleton and a fundamentalist – the "same old crap." She continues walking toward the door of the clinic and then Su-Chin completely changes the line of argument toward what I think is worth pursuing, and says, "Juno, do you know that it has nails?" Juno turns around and asks, "It has nails?" She was perhaps two months into the pregnancy and that remark makes her change her mind. While she's waiting in the abortion clinic, Su-Chin's remarks resonate with her and she decides not to abort, but rather to carry on and give the baby up for adoption. I think this outcome, however fictional, is interesting when we think of strategy.

Let me now show you, more or less, what the general picture is in Argentina regarding right to life issues. I'd like to draw an analogy between what happens now in the United States with the promotion of public morality because it is somehow similar to what happens now in Argentina with the protection of the right to life. The police power of the states to promote public morality in the United States was undisputed, reserved to them in 1787 and subsequently through the Tenth Amendment. Under that police power for the promotion of public morality, there were gambling laws, pornography laws, idleness laws, laws forbidding smoking – all sorts of laws. Such laws were implemented even during colonial times before the United States existed and throughout the nineteenth century. Many of those laws, as you know, are still on the books.

It is now much different, as you know much better than me, due to a line of cases that perhaps starts with *Griswold v. Connecticut* and continues with *Stanley v. Georgia*, *Eisenstadt v. Baird*, and *Roe v. Wade*. This power has been effectively affirmed and effectively denied in each of those cases where several pieces of moral legislation were struck down. The cases state that the power exists, but that there is a right that trumps it.

What started to happen next was that the power began to exist more and more in the papers and less and less in the reality of the lives of the people. This came to an apex in a very interesting case in 1991 dealing with an Indiana law banning nudity called *Barnes v. Glen Theatre*. In that case, a plurality of the Court, which included Chief

Justice Rehnquist, Justice O'Connor, and Justice Kennedy, upheld the power of the states to promote public morality and subsequently upheld the Indiana law banning nudity in public.

Justice Souter, concurring in what was a 5-4 decision, chose to go along on different lines and upheld the law on the grounds that it was a statute that had a reasonable end of avoiding deleterious secondary effects that nudity in public in barrooms and things like that could have. He wasn't willing to use the public morality rationale, but instead went along the lines of secondary effects – the prices in the neighborhood will go down, there will be prostitution on the streets, etc.

Ten years after that, in the case *City of Erie*, the Court revisited the problem. The same plurality that had subscribed the public morality argument in *Barnes* abandoned it without saying so and decided to pick Justice Souter's rational and held that the Erie ordinance banning nudity in public is okay because it has a reasonable relation to the end of avoiding bad secondary effects. Thus, the public morality argument is no longer made except, of course, in the concurrence by Justices Scalia and Thomas, who protest against this silent shift in *City of Erie*.

As I see it, there is a trend toward recognizing the power of the states to promote public morality with justifications that are very untenable if not linked to public morality. After all, what is a deleterious or a bad side effect if not an immoral thing?

To wrap up my analogy, this is more or less what happens with abortion legislation in Argentina. The "official discourse" is that we are a pro-life nation and life is protected under Argentine law from conception. The books and the statutes are really fine – both the criminal statutes and what we call our civil law. But what happens in practice is that through several means, such as judicial decisions and local legislative actions, this notion is constantly being eroded. Furthermore, every year, perhaps more than once, cases that allow abortion are quoting American decisions and ignoring the Argentine constitution.

We have an Argentine lawyer here – Ignacio Boulin. He has litigated in several of these cases, some of which, or perhaps most of which I should say, have been lost by the pro-life cause despite the action of great people like him.

Let me try to close by making reference to a pro-life case in Argentina that will probably be very surprising for you. I'll spare you, for lack of time, of all the classical pro-life Supreme Court decisions that we have on topics like abortion, the morning-after pill, and so on and so forth. They are all good cases, at least until now. However, there is the perception that they might all be overruled. The case I would like

to mention is a very special case of a woman that disappeared. As you know, when military governments were in power, many people were victims of disappearance and torture. When the democratic government came back in 1983, one of the things it started to do was find the remains of people thought to have gone missing but who were actually found in detention camps. They excavated and found their bones – their skeletons. At the time of this case, there was a statute providing for the recovery of damages and for compensation for the next of kin, the heirs and successors of the victims who were found.

In this case, there was a mother, one of the famous Madres de Plaza de Mayo, who thought her daughter had gone missing. The daughter actually was found in a detention camp. The mother initiated a claim before the court to seek for compensation under the statute and began the case *Sanchez* – that was her name. While the case is progressed, the evidence showed that there wasn't only the skeleton of the daughter but that there was also the skeleton of a child – the daughter was pregnant and she had been shot in the belly – some twelve bullets, out of which some three or four were found in the skeleton of the fetus.

> This was completely shocking and immediately divided the leftist community that was promoting the case and others who said, "Do we seek compensation not only for the damages caused by the death of the daughter of Mrs. Sanchez but also for the damages caused by the death of the granddaughter of Mrs. Sanchez–that is the fetus? If we do that, however, we would be endorsing the pro-life cause, and we don't want that. But if we don't do it, we'll have lots of pressure from the left because this person went missing. . . ."

Mrs. Sanchez wanted compensation for both her daughter and grandchild, but she lost in the courts of appeal, which noted, in a divided decision, that the statute provided only for compensation for the damages to the daughter and not for the granddaughter. The Supreme Court, in a unanimous decision, reversed and considered that the statute should be broadly interpreted to protect the life of the unborn person. Two women subscribed to the decision – one of whom had spoken openly on the record for abortion during her nomination process. We don't know the authors of Supreme Court decisions, so no one knows who writes each decision in our system, unlike in yours. Everyone knew, however, that it had been this pro-choice woman who wrote this opinion.

The thing that, like with *Juno*, likely moved this female Justice to incline the balance toward the pro-life cause, perhaps inadvertently,

was the fact that she thought of the daughter's unborn child as a baby. The decision talks about the baby several times – not about "she who shall not be named." Mind you, in Spanish, "baby" is a gendered term. You have "bebé" for a male baby and "beba" for a female baby. Here, there was a female skeleton so the decision talks about "beba" – not about "it," as an English-speaking person might have. Even a pro-life English-speaking person would normally refer to a fetus as "it." We don't have an "it" in Spanish; you have a "he" or a "she." There's no "it." Animals are "he" or "she" and so are babies. This case involved a "she," and the Justice of the Supreme Court was a "she" too. Furthermore, the bullets were there and the skeleton was big. We have a saying in Spanish that I'll close with. It goes along these lines, more or less: "When the eyes don't see something, the heart doesn't feel." When the eyes conversely do see, like they saw the bullets in the skeleton, the heart really trembles. Perhaps, then, all of your legal and philosophical presumptions are left aside and you interpret the law correctly to protect life from the moment of conception. Thank you.

MODERATOR: JANET EPP BUCKINGHAM

I'd like to welcome our third speaker, Dr. Gabriel Mora-Restrepo. He is an associate professor of law and the director of the department of legal philosophy and constitutional law at Universidad de La Sabana Chia Colombia

MODERATOR: JANET EPP BUCKINGHAM

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SPEAKER: DR. GABRIEL MORA-RESTREPO[4]

Good morning. Thank you very much. Santiago didn't leave me enough time. I think Michael Schutt should invite me again so I can have the chance to talk. I want to thank the Christian Legal Society and Advocates International for this invitation, and also the sponsors. I am very pleased to be here. I've met wonderful people and have had a great experience.

I want to apologize before I begin for my English. My English is not as good as Santiago's, so I'll be reading a little as well. My presentation is called "The Excluding Rationality of Prevailing Constitutionalism." I would like to present today a few main aspects. First, I would like to give a general overview of the recent constitutional developments in Colombia, focusing on some key decisions. Second, I will try to present some theoretical elements that will allow us to understand the grounds of the Colombian constitutional culture. Our present-day constitutionalism, which I call dominant or prevailing, intends to exclude from the public legal debate the question, approach, and views regarding the foundation of human rights. While this is not new for you, it is fairly new for us in Colombia. You have been struggling over this for the past many years, but that is not our case. Finally, I will point out some challenges that we must face as Christian lawyers and teachers.

First of all, I would like to say that the legal and constitutional debate in Colombia has changed remarkably since the proclamation of our new constitution in 1991. In the minds of many Colombians, the new constitution was the answer to overcome so many factors of violence and injustices that have dominated the country for so many years. Although it's possible to question and discuss the benefits brought by the new charter, it is undeniable that the constitution was

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adopted in times of despair and was seen as a fundamental covenant that promised great, great changes in the years to come.

Colombia wanted to be in tune with, or in accordance with, contemporary advances in the protection of human rights and democratic institutions. This was especially true of the European constitutionalism of the second post-war period which was built upon a set of fundamental values. It was a constitutionalism that gave the basic understanding of the constitution and the dignity of every human person – that was the foundation of the Colombian constitution. The idea was of a constitutionalism in which human rights would be secured by the judiciary, democratic principles, and civic participation would be strengthened, and all Colombians, even minority groups, would be taken into account through a process of reconciliation and social justice. That was the idea back in 1991.

Seventeen years later, we still find ourselves struggling to gain peace; we have new problems, and we have the same old problems – many related to the displacement of large communities and the process of liberating hundreds and hundreds of military and civilians kidnapped by FARC [Revolutionary Armed Forces of Colombia] and terrorists. Poverty is still a daily concern, as is corruption, violent deaths of infants, and the war against drugs.

Nonetheless, even though these problems are a part of our reality, it is fair to say that we have good news as well. The good news appears if we consider that the Constitutional Court – the Colombian Constitutional Court – has ruled in over 14,000 cases since 1992 regarding the protection of human rights in every imaginable aspect: health, education, freedom, equality, economic, political rights, and life issues. The Court has also imposed specific limitations on the other branches of power and has even established a time limit to the executive and legislative powers in order to solve aspects regarding health issues or the displaced community's problems.

If a lawyer goes to Colombia, he or she would have to recognize that a new constitutional culture has emerged in which the Constitutional Court has played an important role by focusing on the means to protect human rights. What I'm trying to say here is that the Court has done a very good job in many aspects. At the same time, however, that same lawyer who goes to Colombia would have to recognize immediately that there is also bad news. He or she would have to take into account that the same Court has played an important role in imposing, if that is the correct term, a secular vision and more freely promoting an agenda defined by its anti-Christian values. As I will try to prove later, the bad news is that Colombia wanted to be attuned and syn-

chronized with contemporary constitutionalism – something very rich in proposing another abundant set of rights and freedoms, but very poor in regard to the philosophical and perhaps theological grounds that support it.

Let me give you some examples of some constitutional decisions in Colombia. In 1994, the Constitutional Court declared unconstitutional a law that penalized the personal dosage of drugs by arguing that individual freedom lacked certain limitations and that the State is not allowed to impose a perfectionist law – that is, a law that would establish a lifestyle in accordance to moral principles. This idea or notion of individual freedom has become the prevailing notion of freedom and to the so-called "right to privacy," and has served the Court in many other cases.

For example, in a very well known decision regarding religious freedom, the Court said that religion must be defined from the standpoint of the believer and not from the restrictive legislative conception about what religion is. In defense, it has become a very strong idea among Colombians and legal scholars that religious freedom protects Satanism, witchcraft, and all kinds of magical and superstitious practices. It is said that magical religions are mythical substances equally opposed to reason and science, and, from the Court's perspective, the idea of the last judgment or the resurrection from death is no less mythical than the idea of reincarnation or astrological determination of fate.

Another very important case in 1997 concerned euthanasia. Colombia was the second country in the world to consider assisted suicide punishments to be against the constitution. Those laws were opposed to human dignity, and the idea of human dignity played an important role in this decision. It is the terminally ill person, the Court said, who can establish the measure of his or her dignity and, consequently, decide if his life or her life should end.

At the time of the decision, I was taking an LL.M course in constitutional law at a very prestigious university in Colombia, and one of my professors was the Justice who wrote the majority for the decision. We happened to be in the classroom discussing this case and I raised my hand and I said to him, "Professor, I think that notion of human dignity is inaccurate. Dignity, even if it implies a freedom to choose as the Court has said, needs something else." So for about ten minutes, I start giving him many arguments to the idea that dignity refers to something intrinsically good, such as stating that even a comatose person has value and dignity. I said some things like, "Value and dignity are not to be judged by what the person can or cannot do, or how they

feel or make us to feel, or how we feel about them. It's something intrinsically good, and it can sense any instrument and purpose to which their lives can be put." I also gave a philosophical argument in which I discussed Thomas Aquinas. Ten minutes later, I felt like I destroyed this guy – I destroyed the Colombian Constitutional Court's notion on the dignity of human beings.

Well, the Justice is a very kind person. He looked into my eyes after ten minutes and said, "Gabriel, that's what you think about human dignity. I think something completely different." Then he added, "You know what, I'm the judge; you're not." By saying this he meant not only that being the judge put him in a position to make decisions, but also that being a judge put him in the role of defining the meaning of every constitutional word.

Let's go to another case. From 1996 to present day, the Court has been developing a systematic protection of homosexuality – or I should say homosexual behavior – which makes the approval of same sex marriages almost guaranteed to happen in the next few years. In fact, in 1996, the Court declared that laws protecting heterosexual couples were discriminatory and that they were based on a "phobic prejudice" of "treating homosexuals as second-class citizens." However, the Court has repeatedly sustained that the constitutional concept of family is the union of a man and a woman – that is in Article 42 of the Colombian constitution. Family is formed by the union of a man and a woman – marriage of a man and woman.

Unfortunately, the Court said in 1996 that this idea is out of date and later encouraged Congress to amend the constitution. They have asked Congress to change the constitution because, in the minds of those judges, that's not the concept of family. For the Court, "the idea of family is not unique." Rather, it is "an institution with some particularities that has evolved and continues to evolve in time and space." Currently, the Court has said, we have this "nuclear family" and so on, but nothing can assure that the current structure and notion of family will endure through time, or that economic and cultural changes would not make possible other forms and types of cohabitation. Family law therefore, should also follow the course of historical reality and be respectful of pluralism and the right to freedom in regard to sexual options.

Let me go to a final example – this is a great one. In 2006, the Constitutional Court, rejecting a consolidated line of precedent that recognized the inviolability of the unborn right to life, approved abortion in some specific cases where the continuation of pregnancy endangers the life of the woman, when there is a serious fetal malforma-

tion, or when pregnancy is the result of a rape, a non-consensual or abusive sexual act, artificial insemination, or incest. The Court based its decision on various reasons. The Constitutional Court in Colombia, prior to this 2006 decision, discussed the issue of abortion in about a hundred decisions, and in all of them, in every decision, abortion was wrong and constitutionally forbidden.

But then, in 2006, it gave the following reasons for the decision. The first one, which is well known to the American constitutionalists, is based on the notion that the constitution is not a static document but rather a living thing – the living constitution – to be interpreted according to the requirements and conceptions of new generations. A living thing? Americans have a two hundred or more year-old Constitution. This was a fifteen year-old-constitution; but in the mind of the Justices, something had changed.

Another argument was to appeal to the distinction between human persons and the unborn. According to the majority, I'm quoting here:

> It is true that the juridical order protects the unborn but it does not confer this protection – with the same level and with the same intensity – that it does in regard to the human person. An evidence of this is that most of the legislations around the world provide a superior punishment for infanticide or homicide than for abortion.

There were other arguments – very common and very well-known – related to the autonomy of the woman, and the prevailing of her dignity over the unborn, or the relative "weight" between the mother and the child, depending on the stage of development of the fetus, and so on.

There is this conception among many constitutionalist thinkers and theorists, and also among constitutional judges, that constitutional rights fight against one another. Such persons cannot conceive constitutional rights in harmony. They are fighting each other; it is like a collision – one right against the other and so on.

As you can see, the evolution of constitutional law in my country has been important regarding some fundamental rights, but disastrous regarding others. The cases I just referred to show, of course, that among the good news there is also very bad news in Colombia. As Americans, and as citizens of other countries, you may know the story from long ago because you have suffered the gradual but steady rise of a new culture that aims to erode the principles of Western Civilization and, moreover, the Christian basis of our society.

Back in 1994, I was a student in a summer program at the University of Notre Dame and had the chance to study a book by Walter

Lippmann, titled *The Public Philosophy*. That book was very important to me, and I was astonished when I read it, not only because of the way he describes the American society in 1955, but because he described exactly what my eyes were seeing in my own country. In *The Public Philosophy*, Lippmann says that America abandoned its public philosophy, or, in other words, it has lost its foundation of natural law.

In my case, I was seeing a Christian nation that was beginning to abandon its public philosophy – the very principles and precepts which a good citizen cannot deny or ignore. The natural law, in any of its various forms or versions, is understood as a doctrine of common beliefs that allows us to distinguish between what is true and what is false, what is good and what is evil, or what is just and what is unjust. In a deeper sense, I felt that the nation was moving rapidly away from its traditional faith and beginning to replace God with all sorts of new doctrines and idols.

Now, as many have pointed out, the abandonment of those principles and the basic understanding of natural law have created a new culture in our life and in our time. I should call it – as Robert P. George has – "secularist orthodoxy." It is a culture that has not only inspired or influenced dominant constitutionalism, but also many aspects of legal theory and legal institutions. Those of you that are familiar with constitutional theory recognize that our fundamental rights are written in the constitution in the form of general concepts. This is constitutional theory – how do we write our constitutional rights in a constitution? Well, using words and general concepts. Now, secularists believe that a general concept is something in front of which no objective truth can be attained or in front of which nothing intrinsically good or righteous can be recognized. This thinking explains that it is not only possible to have different readings of the same constitutional text, but also opposite readings – each one consequently endorsable and supported by the same constitutional text.

It also shows why human rights are presented today as objects of collision, as I was pointing out earlier, where one fundamental right is "fighting" against another. If we can have as many interpretations as we want, if all interpretations are ultimately constitutionally valid, or if there is no objective core truth or intrinsic value attainable from a constitutional concept, then the foundation of human rights has become a problem of competition between different conceptions. The bottom line is that our human rights have become a matter of politics, whether in the judiciary or elsewhere, instead of being a thing of humanity.

I now point your attention to Ronald Dworkin and John Rawls. Americans know them very well, but you might not know the major

impact they have had in Latin American culture, especially in regards to this issue. As Ronald Dworkin points out, we have concepts from which you can derive many conceptions. All conceptions are at first equally or constitutionally valid. So, at this point you may think that the prevailing constitutionalism seems to be a neutral theory in regard to the competition among different conceptions. The truth is, and this is my opinion, that dominant constitutionalism has become an excluding doctrine because of a very simple reason: If constitutional concepts are empty, anyone who intends to present an argument that is against that basic premise (i.e. that all concepts are in competition and that there are no right or wrong answers per se, such as that marriage is between a man and a woman or that human life is intrinsically good and therefore morally inviolate) undermines the basic principles of rationality and moreover erodes the democratic basis of our society. To put it in Robert George's words, the prevailing constitutionalism excludes as "illegitimate in political discourse and in the exercise of public authority . . . [an] appeal to principles and propositions drawn from comprehensive doctrines even though they are, or may well be, true." According to this view, such exclusion "is morally required by virtue of the fact of reasonable pluralism." So, if you say someone has an absolute right, like the moral absolutes in the case of John Finnis or the marriages between a man and woman, then you cannot participate in that rational dialogue. Prevailing constitutionalism forces us to use our reason in the exclusive context of their "rational coordinates" and rational assumptions.

To finish, it becomes clear that I have presented the prevailing constitutionalism as a doctrine that imposes a set of conditions that challenges essential beliefs that have shaped our civilization and public philosophy. However, we should not be discouraged or in any way abandon our commitment to fight for justice. I also have some advice that I want to give, especially to the law professors. First, I believe we urgently need to work in the restoration of our philosophical approach to legal reality. I've heard during this week from Professors who said that "all Bible" is likely to end the conversation. I want to say it in other words – faith, yes, but faith with reasons. People want to hear reasons. We cannot go to the public square or to our students and tell them that something should or shouldn't be done based only on the Bible. No, we have to add different reasons, and I believe a philosophical approach to legal reality is a good way due to the fact that philosophy gives fundamental reasons and answers to many problematic moral issues. We also need to participate in the public square, whether or not we are a minority or our ideas are unpopular. And natural law,

as Professor Budziszewski said yesterday, is a sign of contradiction. I agree completely with that. It afflicts some people. It demands things. It imposes duties. Natural law is certainly a scandal. But let's carry on that scandal – we can do it.

As professors, we must remember that we are in a leadership position; we are role models. We should live our lives with integrity, passion, responsibility, and excellence. Our students are watching us in every aspect – everything that we do. So, I propose and believe that we have to have a personalized education. If our students are the most important reason for our profession as teachers, then we have to pay attention to them. This implies time and dedication. Our students are our most important books; they are what a friend of mine calls "our living books." If you want to write books, yes, you can write books. But remember, there are other books that are much more important than the ones that you write: your living books – your students. With that, I think we can partly re-Christianize our society. Thank you very much.

MODERATOR: JANET EPP BUCKINGHAM

This was rich with information and I want to recognize all of you. Let's take some questions.

AUDIENCE MEMBER 1:

I have a question for Professor Mora-Restrepo having to do with conscience rights in the wake of the 2006 decision. As I understand it, as regulations regarding the provision of abortion services have been established in the health care codes, people have gone after doctors who refuse to perform abortions. Actually, last week Monica Roa spoke about a case of a judge who recused himself from hearing one of these complaints. What is the prospect for the protection of conscience rights both of doctors in Colombia and even judges?

DR. GABRIEL MORA-RESTREPO:

What a wonderful question, thank you. In short, we are going to the international – into the American court – because, in Colombia, the Constitutional Court is against our petitions and our claims that our doctors could personally refuse to practice any abortions. So, when Monica Roa says that the next step is to go against doctors, she's right because many doctors in Colombia are refusing to practice abortions. However, the Court is going to make them comply by either sending

them to jail or imposing sanctions against them if they refuse. So our pro-life groups have been thinking of the real possibility of going into the Inter-American Court of Human Rights to settle the problem there. However, it is going to be very, very hard.

Now, I don't know if you have had the chance to understand how the Constitutional Court ruled. The case was heard in May 2006, but in October the public knew exactly the weight of the decision. Additionally, something terrible happened between those five months. Many people started to discuss some of the problems such as the objection of the conscience (conscientious objection) and the Court realized that this wasn't argued or discussed in session. Thus, when the Justices were writing the decision, they added a paragraph saying that, in regards to the conscientious objection, it is clear that no one can oppose the practice of abortion. They invented this notion, but in Colombia anything can happen.

AUDIENCE MEMBER 2:

I'm a practicing attorney. I'm not a part of the judiciary; I'm not a professor. However, as I listen to you gentlemen talk, I'm shocked. But I shouldn't be surprised that there is so much of United States judiciary rationale that is filtering into the justices' thinking in South America. It's most disappointing.

PROFESSOR TERESA S. COLLETT:

There are just a couple of things I'd like to say in response to your question. First, if you go to the Congressional record on December 8, 2003, Congressman Chris Smith put the Center for Reproductive Right's five-year strategic global plan into the Congressional record. For those of you who are interested in seeing what the plan is, it's available there. Second, the American academy, and this is more for the professors and alums of law schools, has been a remarkable cost-free resource for the culture of death. What American universities, particularly the most prestigious universities, have done is establish foreign LL.M programs and then solicit and attract the brightest and best – I'm sitting next to two of them – from across the world. They bring them into these foreign LL.M programs, and they indoctrinate them, rather than educate them, in the culture of death.

As academicians, we really need to create viable and equally prestigious opportunities – I'm sorry Dean Starr is gone – to attract the brightest and best and, if you will, inoculate them, as Oxford has done, from this culture of death. Then these men and women will go back to

their home countries where they become the national attorney generals, they sit on the supreme courts, they are head of the departments of health, they are head of the departments of justice, and so on and so forth. We are responsible for the infection throughout the globe and it is our duty now to cure it.

AUDIENCE MEMBER 3:

I have a question and also a request. First, I will go with the request. As you heard from Santiago, the Latino human rights organizations deal with a lot of pro-life issues. There are many lawyers here. If any one of you is interested in helping our organization, we would be accepting. The question goes for any one of you: Do you think that it would be good to address the pro-life issues by focusing more on the woman and responding to the argument that if she doesn't have an abortion, she might be poor forever and her son or daughter will be poor forever? What are your thoughts about empowering the woman to have the child?

MODERATOR – JANET EPP BUCKINGHAM:

Before we answer that, I'm going to have to be very rude and excuse myself as chair because I have another meeting to go to. I think that's going to have to be the last question.

MICHAEL SCHUTT:

Let's thank Janet for doing this. I jumped up when she said that because I just got a text message that said we have plenty of time.

PROFESSOR TERESA S. COLLETT:

Looking at the book of Genesis and the entire Bible, I believe that there is not only a Christian anthropology of the human person but also a Christian anthropology of the sexual relations – meaning husband, wife, male, female. There is no question that women are the object of serious injustices across the world. To deny that makes us look unrealistic and hard-hearted. Therefore, there is a relationship between women's status in society and the perception of the need for abortion. However, I would counter that you do not create equality by medically or chemically turning women into men. The unique biological characteristic of women is our capacity to bear a child and that needs to be honored and respected in a way that does not limit recognition of our

other gifts and talents. See Margaret Thatcher and women throughout the world who have used their gifts for the creation of a more just world.

Thus, I agree that there is a tragedy of women's circumstances particularly in foreign cultures. Although I would say – because of the pornographic culture that's developing in this country – our freedom is subject to a different type of assault. Notwithstanding that tragedy, the cure is not to demand that women kill their babies because we despair that we cannot improve women's condition.

PROFESSOR SANTIAGO LEGARRE:

I would briefly like to add that the other side in this debate uses many statistics, and I think we should imitate them. We should deepen the study of statistics concerning post-abortion stress and post-abortion trauma. Such statistics concerning the stress and the trauma provoked by an abortion have already been accepted as credible.

I would also like to follow-up the recusations of judges from a different angle. In our part of the world, a judge or justice can recuse him or herself, but he or she can also be recused by the parties. A strategy of the pro-choice movement has been, in Chile for example, to recuse pro-life justices because they have previously published on pro-life issues. I think this is wrong as a point of law, but I think it would normally be the case in the United States as well. Even if it were right, I think that this cuts both ways and the strategy of recusing pro-choice justices should be used when they have previously expressed those sorts of views.

AUDIENCE MEMBER 4:

One of the points that Monica Roa was making last week was that this is part of their strategy – to seek to recuse the judges.

AUDIENCE MEMBER 5:

I would like to express a couple of informational points. First, the front page of today's *New York Times* explains that the Connecticut Supreme Court ruled that gay marriage is legal in Connecticut. Second, several years ago, Yale Law School banned this organization, the Christian Legal Society, from using its premises because it said that this group discriminated against Christians on the basis of their religion. I do actually have a question. Some of the most prominent law professors in the country have signed on as part of the Obama cam-

paign, including a former dean of a law school who is now a professor at Pepperdine University, and one of the more prominent professors at Notre Dame. I'm curious if anyone has any sense in terms of whether or not those folks are staying with their original position or if they have backed off.

PROFESSOR TERESA S. COLLETT:

It has become the subject of a number of conferences, forums, and symposia at Catholic law schools in the context of the U.S. Conference of Catholic Bishops' statement on faithful citizenship forming the conscience of the public.

PROFESSOR SANTIAGO LEGARRE:

I have a comment on the interesting thing you said about the front page of the *New York Times*. I find it really interesting that a newspaper that claims to put on the front page all of the news that fit with the things that are happening these days in the world and in the United States, put such a decision on its front page. It's obvious that the news that fits is the news of its agenda. This is a great example.

MICHAEL SCHUTT:

You might even visit the Center for Law and Religious Freedom. The Christian Legal Society ministry for Law and Religious Freedom was dealing with e-mails on that issue yesterday and is formulating strategy as well. I also have a word on the law school situation: I met with thirty law students at Yale Law School and their Christian Legal Fellowship this weekend in a retreat they had. They are alive and well despite the oppression of the administration.

AUDIENCE MEMBER 6:

John Eldredge and Brent Curtis wrote a book several years ago called *The Sacred Romance*. They take great pains to discuss the status of the woman from God's perspective and how He saved the woman for the last thing that He created as being the pinnacle of His creation. They also explain how God views the beauty of the woman and how special women are to God. I really recommend it; it's a great read. It also keys into why Satan has determined through rape, sexual abuse, and pornography to destroy women – because she is the pinnacle of God's creation. It's a great book.

AUDIENCE MEMBER 7:

While we're mentioning resources on the subject, I would like to mention Karol Wojtyla's *Love and Responsibility* and Pope John Paul II's *The Theology of the Body*. It's just a wonderful resource that we will be unpacking for centuries. If you're interested in these questions, there's a blog that I contribute to called "Mirror of Justice."

MICHAEL SCHUTT:

I would like to point your attention to MirrorOfJustice.Blogs.com. Thank you so much panelists. You've been fantastic. This has been a great, great morning. We really appreciate your wisdom.

APPENDIX

ANNOTATED BIBLIOGRAPHY*

Books & Pamphlets

ALBIN ESER & HANS-GEORG KOCH, ABORTION AND THE LAW (Emily Silverman, trans., 2005).

This book is an assessment of the abortion issue on an international scale. The authors accomplish this by taking on the topic in multiple ways: religious perspectives, historical developments, legal concepts, and statistical information. Eser and Koch, both of Freiburg, Germany, also state their proposed abortion regulation.

AMY LEIGH CAMPBELL, RAISING THE BAR: RUTH BADER GINSBURG AND THE ACLU WOMEN'S RIGHTS PROJECT (2004).

Campbell discusses Justice Ginsburg's life from 1971 to 1980 when she was general counsel to the ACLU Women's Rights Project. Included are many of her private papers as well as the development of her complicated and multilayered strategy to address gender discrimination. The book discusses both theory and implementation.

* This Annotated Bibliography was compiled by the editorial staff of the Regent Journal of International Law.

BENEDICT M. GUEVIN, CHRISTIAN ANTHROPOLOGY AND SEXUAL ETHICS (2002).

Guevin analyzes the relationship of ethics and sexuality through the lens of Catholicism. He focuses particularly on two matters: the creation of man and the incarnation of Jesus Christ.

BRENT CURTIS & JOHN ELDREDGE, THE SACRED ROMANCE: DRAWING CLOSER TO THE HEART OF GOD (2005).

Curtis and Eldredge tell how the Gospel and Christianity are about a Sacred Romance – God's love. They write that God seeks to draw and woo us to Him and away from the "Less-Wild Lovers" in our lives.

DAVID BUSHNELL, THE MAKING OF MODERN COLOMBIA (1993).

Despite strides made in Colombia, there can be no doubt that violence, especially related to the illicit drug industry, has become, and remains, a way of life in the country. Between the illicit drug culture, FARC, and general unrest in Colombia, homicide became the leading cause of death in 1986. Yet, the development of Colombia as a democracy and growth of the administrative capabilities of the government continued in spite of such dire struggles.

FRANCIS A. SCHAEFFER, A CHRISTIAN MANIFESTO (2005).

What the panelist, Dr. Gabriel Mora-Restrepo, labels "secularist orthodoxy," Dr. Schaeffer calls "secular humanism." Schaeffer sees the breakdown in morality as a clash of competing worldviews.

GABRIEL MORA-RESTREPO, JUSTICIA CONSTITUCIONAL Y ARBITRARIEDAD DE LOS JUECES (2009).

This book studies the problematic distinction between justice and arbitrariness in the area of constitutional interpretation, the way judges justify their decisions, and the requirements, conditions, and limits they posses in concrete cases.

GEORGE GRANT, GRAND ILLUSIONS: THE LEGACY OF PLANNED PARENTHOOD (1999).

Grant writes an exposé on the real Planned Parenthood: what the organization stands for, how it works, and the tragic consequences of its influences. He discusses legal precedents, court decisions, educational initiatives, political machinations, cul-

tural ramifications, sociological ramifications, and theological implications.

HAROLD J. BERMAN, LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION (1983).

In Berman's treatise on the natural law underpinnings of the Western legal tradition, he notes that the West is facing a never-before-seen attack on its legal value, legal thought, and legal foundation. Berman's concern stems from his observation that natural law is now viewed as "Western" and "obsolete."

HUGO YOUNG, THE IRON LADY: A BIOGRAPHY OF MARGARET THATCHER (1989).

This biography of Margaret Thatcher tells of her rise to become the leader of the Conservative party in Great Britain. It also explains some of the key issues which arose during her time as Prime Minister, including the war in the Falkland Islands, and her interactions with British politicians, Soviet President Mikhail Gorbachev, and U.S. President Ronald Reagan.

JEFFREY A. BRAUCH, A HIGHER LAW: READINGS ON THE INFLUENCE OF CHRISTIAN THOUGHT IN ANGLO-AMERICAN LAW (William S. Hein & Co.) (2008).

Brauch's book is a collection of excerpted works chronicling the beginning of natural law theory all the way to legal deconstructionism. The essays examine whether there is a direct linkage between the skepticism about the existence of God, belief in objective truth, and the concept of justice in the legal arena.

JOHN V. ORTH, DUE PROCESS OF LAW: A BRIEF HISTORY (2003).

Orth discusses the history of the concept of due process and how it has evolved over the centuries. The author tracks its history from medieval Britain through the American constitutional expansion of the concept. He also discusses substantive due process and its relation to many American freedoms.

JOSEPH W. DELLAPENNA, DISPELLING THE MYTHS OF ABORTION HISTORY (2006).

Dellapenna debunks Justice Blackmun's version of abortion history as articulated in his written opinion in *Roe v. Wade*. Blackmun argued that, inter alia, abortion was not a crime at common law, was relatively safe throughout its history, and

that abortion statutes were enacted to protect the life of the mother rather than the child. Dellapenna sets forth the history of abortion by revealing that abortion was treated as a serious crime, prosecution and executions concerning those who performed abortions go back a hundred years in England, and the penalties for abortions focused on protecting the life of the unborn child.

LEO J. TRESE, THE FAITH EXPLAINED (2000).

In this comprehensive handbook to Catholicism, Trese examines fundamental questions about existence from the viewpoint of the Catholic Faith.

LESLIE J. REAGAN, WHEN ABORTION WAS A CRIME: WOMEN, MEDICINE, AND LAW IN THE UNITED STATES, 1867-1973 (1998).

Reagan, a pro-abortion author, presents her view of history regarding abortion in America before 1973. She paints a picture of many women who died trying to have an abortion and states that some doctors believed that there were two million abortions per year.

LINDA GREENHOUSE, BECOMING JUSTICE BLACKMUN: HARRY BLACKMUN'S SUPREME COURT JOURNEY (2006).

Greenhouse addresses Justice Blackmun's life and intellectual history. She discusses Blackmun's authorship of *Roe v. Wade* and his time on the Supreme Court as one of its most liberal members.

MARIAN FAUX, ROE V. WADE, UPDATED EDITION: THE UNTOLD STORY OF THE LANDMARK SUPREME COURT DECISION THAT MADE ABORTION LEGAL (2000).

This book addresses the history of *Roe v. Wade*, cataloging the actions of the attorneys who brought the case from beginning to end. It also examines a philosophical treatment of abortion.

MICHAEL J. PERRY, WE THE PEOPLE: THE FOURTEENTH AMENDMENT AND THE SUPREME COURT (2d. ed. 2001).

By discussing some of the Supreme Court's most important Fourteenth Amendment cases, Perry highlights the different interpretations of the Fourteenth Amendment, how it has been applied, and how the Supreme Court has treated it.

NORMA MCCORVEY, WON BY LOVE (1997).

"Jane Roe" tells the story of her involvement in *Roe v. Wade* and discusses her experience working in the abortion clinics for two decades. She eventually broke away from this work, became a Christian, and spoke out against abortion.

Rebecca Cook, *Excerpts of the Constitutional Court's Ruling that Liberalized Abortion in Columbia, in* REPRODUCTIVE HEALTH MATTERS (May 2007), *available at* http://findarticles.com/p/articles/mi_hb264/is_29_15/ai_n29358901.

The Constitutional Court in Colombia, in case C-355/06, struck down the criminal prohibition on abortion, citing the free exercise of a woman's human rights. Abortion is now legally permitted only when the woman faces physical or mental health risks, the fetus is nonviable, or the woman became pregnant due to rape, incest, or artificial insemination against her will.

ROBERT P. GEORGE, THE CLASH OF ORTHODOXIES. LAW RELIGION AND MORALITY IN CRISIS (2001).

This book explores the major contemporary conflict of worldviews, in the political domain, in the courts of law, and in the Church. George sustains and fully develops the idea of Reasonableness of Christian Morality and that Christian principles comport with facts and logic, while secularist ideology does not.

SUSAN M. STANFORD-RUE, WILL I CRY TOMORROW? (1990).

Stanford-Rue tells the personal story of her abortion. She relates the thoughts and emotions that were part of the experience, and of God's love and presence in her life. Stanford-Rue also devotes a chapter specifically to a list of steps to healing from post-abortion trauma.

WALTER LIPPMANN, THE PUBLIC PHILOSOPHY (2006).

Over fifty years ago, Lippmann wrote about the decline in American society's understanding of the fundamental values of the republic and of the resulting decrease in civility in American culture.

WILLIAM AVILÉS, GLOBAL CAPITALISM, DEMOCRACY, AND CIVIL-MILITARY RELATIONS IN COLOMBIA (2006).

The introduction of democracy in Colombia over the past several decades has not been a clean process. The fragmented interests have served as a constant threat to democracy in the country, frequently spilling over to violence and death at the hands of separatist groups. Even in the face of severe challenges, however, the democratic government has grown and transitioned military leadership into civil leadership.

WORLD HEALTH ORGANIZATION, MATERNAL MORTALITY IN 2005: ESTIMATES DEVELOPED BY WHO, UNICEF, UNFPA, AND THE WORLD BANK, (2007), *available at* http://www.who.int/whosis/mme_2005.pdf.

In 2005, the World Health Organization produced a study indicating the real causes and cures of maternal mortality. The speaker mentions Ireland as having one of the lowest instances of maternal mortality and attributes that in part to Ireland's lower abortion rate. Ireland and its lower maternal mortality and morbidity are mentioned specifically in the WHO document.

Law Review Articles

Alan Seagrave, Note, *Conflict in Colombia: How Can Rebel Forces, Paramilitary Groups, Drug Traffickers, and Government Forces Be Held Liable for Human Rights Violations in a Country Where Impunity Reigns Supreme?*, 25 NOVA L. REV. 525 (2001).

The government of Colombia has made numerous compromises and concessions in favor of perpetrators of human rights violations in order to reduce the country's epidemic and pervasive violence. In this article, Seagrave questions whether that same government can be trusted to prosecute human rights violations or whether international intervention is necessary to achieve even a semblance of justice.

Arturo Carrillo-Suarez, *Hors de Logique: Contemporary Issues in International Humanitarian Law as Applied to Internal Armed Conflict*, 15 AM. U. INT'L L. REV. 1 (1999).

Colombia provides an ideal case study for international humanitarian legal concerns as the country has maintained a long-standing, internal armed conflict that has been well documented. This article is particularly helpful as it analyzes

the internal governmental response of Colombia to the country's own problems.

Cary J. Nederman, *Review: Aquinas: Moral, Political, and Legal Theory*, 93 AM. POL. SCI. REV. 700 (1999).

Nederman reviews Finnis's book, *Aquinas: Moral, Political, and Legal Theory*, in which he revisited the works of one of the world's most brilliant legal minds, Thomas Aquinas. Finnis applied Aquinas' natural law theory to current issues such as the death penalty, the principle of legality, capitalist economics, and civil disobedience.

David Landau, *The Two Discourses in Colombian Constitutional Jurisprudence: A New Approach to Modeling Judicial Behavior in Latin America*, 37 GEO. WASH. INT'L L. REV. 687 (2005).

Landau describes the old and new constitutional systems in Colombia and the two different judicial philosophies associated with each. He calls the first philosophy the "traditional approach" which resembles strict construction. He labels the second philosophy "New Constitutionalism" which is a view of the Constitution as a living document.

Diego Rodríguez-Pinzón, *Reparations in the Inter-American System: A Comparative Approach*, 56 AM. U. L. REV. 1375 (2007).

Human rights violations have been a standing matter on the agenda and docket of the Inter-American Commission and Inter-American Court for the past two decades. However, the Colombian government has increased its cooperation with international judicial bodies in recent years to allow individuals reparations through the national court system when the Inter-American Court finds the Colombian government liable for human rights incidents.

Judith C. Gallagher, Note, *Protecting the Other Right To Choose: The Hyde-Weldon Amendment*, 5 AVE MARIA L. REV. 527 (2007).

Gallagher discusses legislation designed to protect various kinds of medical professionals, including paramedics, from being compelled to perform medical procedures that take life by making it illegal for employers to discriminate on the basis of conscience. The article highlights the importance of protecting the right to freedom of conscience for medical professionals.

Richard G. Wilkins & Jacob Reynolds, *Law and Culture: International Law and the Right to Life*, 4 AVE MARIA L. REV. 123 (2006).

In this article, Wilkins and Reynolds describe the effect the *Committee on the Elimination of Discrimination against Women* is having on abortion laws internationally. The article goes on to explain the efforts being made to encourage the respect of life internationally.

Teresa S. Collett, *The Court's Confused (and Confusion) Understanding of the Creation and Taking of Human Life*, 68 MONT. L. REV. 265 (2007).

Professor Collett expresses her views on the interaction of the courts and an array of protection-of-life issues.

Timothy Posnanski, Note, *Colombia Weeps But Doesn't Surrender: The Battle for Peace in Colombia's Civil War and the Problematic Solutions of President Álvaro Uribe*, 4 WASH. U. GLOBAL STUD. L. REV. 719 (2005).

Álvaro Uribe won election as President of Colombia by using a platform of strong governmental authority to quell the violence in the country caused by warring militant groups, drug smugglers, and kidnappers-for-ransom. While Uribe's use of governmental power and controversial tactics have been effective, this article raises the question of whether Colombia's government has infringed too much on individual liberties in a democratic society.

Journal Articles

Elliot Institute, *New Study Links Abortion to Wide Range of Mental Health Disorders*, J. PSYCHIATRIC RES. (2008).

The panel addressed the mental and biological effects abortion can have on a woman's body and psyche. In December 2008, the Journal of Psychiatric Research published a study confirming that mental disorders are in fact linked to the abortion procedure.

José E. Arvelo, Note, *International Law and Conflict Resolution in Colombia: Balancing Peace and Justice in the Paramilitary Demobilization Process*, 37 GEO. J. INT'L L. 411 (2006).

More than forty years of armed conflict have resulted in a continual bloodbath in Colombia, which has shown that there is no pure military solution to violence in the country. Ideally, all

perpetrators of human rights violations would be prosecuted. In Colombia, however, the government must take a balanced approach in pursuit of justice and peace. International law can be a source of external guidelines, but the solution for Colombia must be a Colombian product.

Joseph R. Brubaker, *The Judge Who Knew Too Much: Issue Conflicts in International Adjudication*, 26 BERKELEY J. INT'L L. 111 (2008).

This article analyzes the issues of impartiality, conflicts of interest, recusal, and issue conflicts in international tribunals. Among other things, Brubaker specifically addresses the International Court of Justice, International Criminal Tribunals, and the World Trade Organization.

Lisa J. Laplante & Kimberly Theidon, *Transitional Justice in Times of Conflict: Colombia's Ley de Justicia y Paz*, 28 MICH. J. INT'L L. 49 (2006).

Following times of great conflict or other forms of unrest, governments across the globe have resorted to transitional justice models to address human rights incidents in unique and non-traditional ways. Colombia also resorted to transitional justice in order to strike a delicate balance between bringing peace by appeasing paramilitary groups and pursuing justice for victims of human rights violations. This article questions whether Colombia's continued reliance on transitional justice can be validated.

Miguel Schor, *An Essay on the Emergence of Constitutional Courts: The Cases of Mexico and Colombia*, 16 IND. J. GLOBAL LEGAL STUD. 173 (2009).

Schor exams the new roles of high courts in relatively young constitutional systems, namely, Mexico and Colombia. He lays some background information to the legal climate in Colombia as discussed by the speakers.

R.J. Cook, B.M. Dickens & L.E. Bliss, *International Developments in Abortion Law from 1988 to 1998*, AM. J. OF PUB. HEALTH 89 (1999).

This study of trends in abortion laws around the world examines the shift from punishing abortion as a crime to promoting abortion as a woman's reproductive right. It endorses the international growth of availability of abortions to protect the health of potential mothers.

Newspaper Articles

Carolyn Lochhead, *Some Influential Conservatives Spurn GOP and Endorse Obama*, S.F. CHRON., July 7, 2008, at A1.

Lochhead's article explains how some conservatives refused to support Republican presidential nominee John McCain and instead endorsed Barack Obama for President. Of particular importance to this panel discussion is the endorsement by Douglas Kmiec, constitutional law professor at Pepperdine University and attorney in the Office of Legal Counsel to both Presidents Ronald Reagan and George H.W. Bush.

Indira A.R. Lakshmanan, *Colombia Court Backs Rights for Gay Couples*, BOSTON GLOBE, Feb. 9, 2007, at A10.

In a recent ruling, the Colombian Constitutional Court found that homosexual couples are entitled to the same inheritance rights as cohabitating heterosexual couples. The ruling was not opposed by the Catholic Church and had the support of President Álvaro Uribe.

Encyclopedia Entries

Walter Lippmann, Encyclopedia Britannica Online, http://www.britannica.com/EBchecked/topic/342965/Walter-Lippmann (last visited Mar. 16, 2009).

Walter Lippmann was a political columnist who wrote from the perspective of a natural law theorist. His book, *Public Opinion*, was a critique of the mass media, implying that media outlets only produce slogans rather than qualitative interpretation.

Court Opinions

Akron v. Akron Center for Reproductive Health, 462 U.S. 416 (1983).

In *Akron*, the U.S. Supreme Court held that while a State's interest in health regulation becomes compelling at approximately the end of the first trimester, the State's regulation may be upheld only if it is reasonably designed to further that interest. If during a substantial portion of the second trimester the State's regulation departs from accepted medical practice, it may not be upheld simply because it may be reasonable for the remaining portion of the trimester. Rather, the State is obligated to make a reasonable effort to limit the effect of its regu-

lations to the period in the trimester during which its health interest may be furthered. Furthermore, *Akron* was held to have imposed a heavy and unnecessary burden on women's access to a relatively inexpensive, otherwise accessible, and safe abortion procedure.

Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991).

The decision of the U.S. Supreme Court on freedom of speech and the ability of the government to outlaw certain forms of expressive conduct was monumental. It ruled that the States have the constitutional authority to regulate this form of expression, as it furthers a substantial government interest in protecting the morality and order of society.

Doe v. Bolton, 410 U.S. 179 (1973).

The U.S. Supreme Court's opinion in *Doe v. Bolton* stated that a woman may obtain an abortion after viability if necessary to protect her "health." The Court defined "health" quite broadly.

City of Erie v. Pap's A.M., 529 U.S. 277 (2000).

In a landmark conclusion by the U.S. Supreme Court regarding nude dancing as free speech, the Court held that an ordinance banning public nudity did not violate the operator of a totally nude entertainment establishment's constitutional right to free speech.

Gonzales v. Carhart, 550 U.S. 124 (2007).

In a bitterly divided opinion, the U.S. Supreme Court upheld the federal partial birth abortion ban stating that it was appropriate in this instance to defer to the Congressional judgment as to the true weight of the medical evidence because there is a true dispute over medical evidence.

Griswold v. Connecticut, 381 U.S. 479 (1965).

Griswold was a landmark case in which the U.S. Supreme Court ruled that the Constitution protected a right to privacy. The case involved a Connecticut law that prohibited the use of contraceptives. By a vote of 7-2, the Supreme Court invalidated the law on the grounds that it violated the "right to marital privacy."

Mapiripán Massacre v. Colombia, 2005 Inter-Am. H.R. (ser. C) No. 132 (Sept. 15, 2005).

In this widely-cited human rights case, the government of Colombia admitted internal responsibility for a massacre that claimed the lives of 49 people. The case was particularly important for the human rights of women and children and represents a precedent for reparations in Colombia.

Planned Parenthood v. Casey, 505 U.S. 833 (1992).

Proponents of abortion challenged a Pennsylvania law which restricted abortions. The U.S. Supreme Court upheld a twenty-four hour waiting period, a requirement for informed consent, a requirement for parental consent for abortions performed on minors, and a statutory definition of a "medical emergency." The Court further rejected the trimester analysis of *Roe* and held that the state could not require spousal notice should a married woman desire an abortion.

Planned Parenthood v. Rounds, 530 F.3d 724 (2008).

In *Rounds*, the U.S. Court of Appeals upheld South Dakota's informed consent law which required that the abortion provider inform the woman that she was ending the life of a separate human being.

Poe v. Ullman, 367 U.S. 497 (1961).

In *Poe*, the U.S. Supreme Court held that the plaintiffs lacked standing to challenge a Connecticut law that banned the use of contraceptives and banned doctors from advising their use, because the law had never been enforced. Therefore, any challenge to the law was deemed unripe because there was no actual threat of injury to anyone who disobeyed the law. The same statute would later be challenged in *Griswold v. Connecticut* (1965).

Roe v. Wade , 410 U.S. 113 (1973).

Roe v. Wade was the landmark case in which the U.S. Supreme Court established a woman's constitutional right to an abortion. In *Roe v. Wade*, Justice Blackmun referred to several studies on the "therapeutic" use of abortions.

Stanley v. Georgia, 394 U.S. 557 (1969).

This U.S. Supreme Court decision helped establish a personal "right to privacy." The Georgia home of Robert Eli Stanley, a suspected and previously-convicted bookmaker, was searched by police with a federal warrant to seize betting paraphernalia.

They found none, but instead seized three reels of pornographic material from a desk drawer in an upstairs bedroom and later charged Stanley with the possession of obscene materials, a crime under Georgia law. This conviction was upheld by the Georgia Supreme Court. The U.S. Supreme Court unanimously overturned the earlier decision and invalidated all state laws that forbid the private possession of materials judged obscene, on the grounds of the First and Fourteenth Amendments.

Stenberg v. Carhart, 530 U.S. 914 (2000).

The U.S. Supreme Court held that a Nebraska statute which banned partial-birth abortions was unconstitutional because it lacked an exception for the preservation of the health of the mother.

Thornburgh v. Am. Coll. of Obstetricians & Gynecologists, 476 U.S. 747 (1986).

Justice Blackmun delivered the decision of the U.S. Supreme Court to overturn a Pennsylvania statute which placed several restrictions on abortion. These restrictions included a requirement for informed consent based on a particular state-authorized informational message, and a requirement to have a second physician present for the abortion to care for the child should it be born alive.

Webster v. Reproductive Health Services, 492 U.S. 490 (1989).

The U.S. Supreme Court upheld a Missouri law that imposed restrictions on the use of state funds, facilities, and employees in performing, assisting with, or counseling for abortions. This ruling potentially compromised *Roe v. Wade*'s protection of abortion. The Court in *Webster* allowed states to legislate in an area that hadpreviously been assumed forbidden under *Roe*.

Miscellaneous Sources

149 CONG. REC. E2534 (daily ed. Dec. 8, 2003) (statement and submission of Rep. Smith).

This Congressional Record entry describes the deceptive practices of the abortion lobby. It details a five-year plan by the Center for Reproductive Rights and shows the Center's inten-

tion to promote abortions through legal channels internationally.

Camilo Eduardo Martinez Orozco, Ruling Allowing Induced Abortion in Colombia: A Case Study (May 2007) (Master's thesis, Linkopings Universitet), *available at* http://liu.diva-portal.org/smash/record.jsf?pid=diva2:23733.

This thesis was prepared by a student as a requirement for completion of a Master's degree in Applied Ethics. The paper discusses the ethical matters raised in the court opinion that legalized abortions in certain circumstances in Colombia.

Camille Paglia, *Fresh Blood for the Vampire*, SALON.COM, Sept. 10, 2008, http://www.salon.com/opinion/paglia/2008/09/10/palin/print.html.

Paglia is renowned for her pro-choice policies. However, she has admitted that the debate is no longer about whether the unborn is a human being, but rather, what rights will be afforded to it. In the article Paglia specifically mentions that abortion is murder of a human being, the extermination of the powerless by the powerful.

CENTRAL STATISTICS OFFICE OF IRELAND, STATISTICAL YEARBOOK 2002, *Vital Statistics* (2002), *available at* http://www.cso.ie/releases publications/documents/statisticalyearbook/2002/vitalstatistics_2002.pdf.

Ireland's maternal mortality rate is much lower than neighboring Britain. In either country, however, maternal mortality rate is less than ten incidents per one hundred thousand, or one one-thousandths of a percent. This tends to indicate that giving birth is not as prevalent of a health risk as some abortion proponents claim.

CONST. OF THE ARGENTINE NATION § 75, ¶ 22, *available at* http://www.argentina.gov.ar/argentina/portal/documentos/constitucion_ingles.pdf.

This section empowers the Argentine Congress to approve or reject treaties with other nationals and international organizations. The Convention on the Rights of the Child is specifically incorporated.

Erika Bachiochi, *How Abortion Hurts Women: The Hard Proof*, CRISIS, June 2005.

The British Medical Journal and other foreign medical journal studies specifically mention abortion's harmful effects on women. Such studies are largely excluded from American medical journals.

Francis Canavan, *On Restoring the Natural Law*, 1 CATH. SOC. SCI. REV. 32 (1996), *available at* http://www.catholicsocialscientists.org/CSSR/Archival/1996/1996_032.pdf.

Canavan advocates certain strategies for reintegrating natural law with modern American jurisprudence, after establishing the need for doing so.

Gerald V. Bradley, *Natural Law and Constitutional Law*, 1 CATH. SOC. SCI. REV. 36 (1996), *available at* http://www.catholicsocial scientists.org/CSSR/Archival/1996/1996_036.pdf.

This article analyzes the possible applications and effects of natural law upon modern American constitutional jurisprudence. Appealing to the natural law is seen by many Christians as perhaps the only way to redeem the moral bankruptcy of our current system of rights.

Human Rights Watch, http://www.hrw.org (last visited Mar. 27, 2009).

Human Rights Watch is an international non-governmental organization that conducts research and advocacy on human rights. Its headquarters are in New York City.

Human Rights Watch, *International Human Rights Law and Abortion in Latin America* (2005), *http://www.hrw.org/backgrounder/wrd/wrd0106/.*

Latin America is home to some of the most restrictive abortion laws in the world. While only three countries – Chile, El Salvador, and the Dominican Republic – provide no exceptions for the criminal sanctions on abortion, in most countries and jurisdictions, exceptions are provided only when necessary to save the pregnant woman's life and in certain other narrowly defined circumstances. Even where abortion is not punished by law, women often have severely limited access because of lack of proper regulation and political will.

"Jane Roe" Tells True Story Behind Roe v. Wade, NAT'L RIGHT TO LIFE NEWS, http://www.nrlc.org/news/1998/NRL2.98/norma298.html (last visited Mar. 27, 2009).

This is a transcript of Norma McCorvey's ("Roe" in *Roe v. Wade*) testimony before the Senate Subcommittee on the Constitution, Federalism and Property Rights on January 21, 1998. McCorvey discusses how her attorneys used her situation and told her to lie in order to further their agenda.

Pope John Paul II, Fides et Ratio – Encyclical Letter (Sept. 15, 1998), http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_15101998_fides-et-ratio_en.html.

This letter from Pope John Paul II to his bishops details the importance of applying reason and faith in discovering more about God and in confronting worldviews hostile to that of the Christian faith. The letter is quite exhaustive and touches on the merits of utilizing reason in the quest to advance Christianity.

Life's Greatest Miracle (PBS television broadcast Nov. 2001), *available at* http://www.pbs.org/wgbh/nova/miracle/program.html.

This program documents that the unborn are biologically human beings. Thus, the debate is no longer about whether unborn children are human, but whether rights should be accorded to them.

Michael Fragoso, *Ratifying U.N. Radicalism*, FIRST THINGS, Mar. 16, 2009, http://www.firstthings.com/onthesquare/?p=1337.

Fragoso discusses the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and argues that the U.S. Senate should not ratify it. The article argues that the committee which would oversee the implementation of the treaty has a record of tossing aside conscientious objections to abortions by doctors. The article cites the committee's dealings with Colombia as one such example.

Mika Gissler, *Pregnancy-Associated Deaths in Finland 1987-1994: Definition Problems and Benefits of Record Linkage*, ACTA OBSTETRICIA ET GYNECOLOGICA SCANDINAVICA (1997).

This study indicates that women may be four times more likely to die as a result of an abortion than from childbirth.

Pope Benedict XVI, Address to the U.N. General Assembly (Apr. 19, 2008).

The Pope commented on the need to return to an objective standard for human rights and how those human rights have

their original basis in natural law. The Pope focused on natural law and the universality of the human person.

THE POLITICAL CONST. OF COLOM. art. 2.

Mindful of the violence that had plagued Colombia, the 1991 Constitution sought to protect the individual liberties and dignity of Colombia's citizens. The Constitution sought to establish a government that protected the Colombian people as much as it protected Colombian national sovereignty.

Convention on the Rights of the Child, Nov. 20, 1989, art. 38, 28 I.L.M. 1457, *available at* http://www2.ohchr.org/english/law/crc.htm.

The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights – civil, cultural, economic, political and social rights. In 1989, world leaders decided that children needed a special convention because people under eighteen years of age often need special care and protection that adults do not. The leaders wanted to make sure that the world recognized that children also have human rights.

Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948).

The Preamble to the UDHR affirms that the inalienable rights and inherent dignity of all members of the human family are the foundation for liberty and justice. The thirty articles that comprise the UDHR list inalienable rights that are only truly understood as objective standards.

U.S. CONST. amend. X.

The Tenth Amendment restates the Constitution's principle of Federalism: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."