

On Making the Case for Life

St. Peter's Counsel to Always Be Ready

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Abstract. In *Evangelium vitae*, Pope John Paul II writes that the culture of death is the consequence of society embracing a “positivist mentality.” Given both where the Church is culturally situated as well as her call for a New Evangelization, this article offers a critique of positivist mentality that attempts to draw out of its advocates the natural law that is “written in the heart.” This critique includes an analysis of the article “After-Birth Abortion: Why Should the Baby Live?” authored by Alberto Giubilini and Francesca Minerva and published in 2013 in the *Journal of Medical Ethics. National Catholic Bioethics Quarterly* 13.4 (Winter 2013): 601–609.

St. Peter tells us in his first letter to “always be ready to make your defense to anyone who demands from you an accounting for the hope that is in you; yet do it with gentleness and reverence” (I Peter 3:15, 16a, NRSV). This call for us to prepare ourselves to engage those who raise questions about our faith, in all its fullness, including its moral implications, is a dimension of the New Evangelization that is essential to advancing a culture of life.

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Although we Catholics know what we believe about the sanctity of life, many of us live in societies that embrace laws and practices that are hostile to it. We often find ourselves bewildered when we encounter fellow citizens who seem unmoved by our proclamations for society to treat those who cannot speak for themselves—the unborn, the newly born, the severely handicapped, the infirm, and the very old—as full-fledged members of the human community, despite their immaturity, illness, or decline. For we believe they have lives of immeasurable worth, and for that reason we are required to love and care for them and not to intentionally will their deaths.

As Catholics, we do not believe a person's inherent dignity depends on whether or not he is capable of exercising all, or even some, of the ultimate capacities that all human beings essentially possess by nature, even when his present physical state is what is preventing him from doing so. In other words, a human being remains identical to himself throughout his entire mortal existence and does not become something else either when he exercises certain powers when he becomes a mature version of himself or if, due to illness or age, he loses or never fully actualizes those powers.

Unfortunately, this understanding of the human person, so essential to Christian anthropology, has come under relentless and sustained attack over the past fifty years. Thus, in order for us to obey St. Peter's command as applied to this issue—that is, to always be ready to make our defense of the Gospel of Life—we have to both understand the nature of the attacks on the sanctity of life ethic and learn how to respond to them with “gentleness and reverence.”

The Positivist Mentality and the Sanctity of Life

In *Evangelium vitae*, Pope John Paul II alludes to the particular philosophy of the human person that has given rise to the culture of death, with which its proponents seek to replace the sanctity of life ethic: “In the background there is the profound crisis of culture, which generates scepticism in relation to the very foundations of knowledge and ethics, and which makes it increasingly difficult to grasp clearly the meaning of what man is, the meaning of his rights and his duties.”¹ As the late pontiff points out in another encyclical, *Fides et ratio*, the reason for this skepticism is the rise of what is often called *scientism*: the belief that the deliverances of the hard sciences are the only things that we can know apart from mathematics or logic. Calling this “the positivistic mentality,” since its proponents maintain that meaning and purpose are *posited*, or imposed, by our minds on an ultimately purposeless and purely material universe, John Paul II notes that when it “took hold,” this mentality “not only abandoned the Christian vision of the world,” it “more especially rejected every appeal to a metaphysical or moral vision.”²

What John Paul II means by this is that once a society embraces scientism, or at least its spirit, certain beliefs can no longer be considered live options. For example, if purpose and meaning cannot be derived from the natural world, including human nature, but only imposed on it by us, then there are no actual goods to which a human

¹ John Paul II, *Evangelium vitae* (March 25, 1995), n. 11.

² John Paul II, *Fides et ratio* (September 14, 1998), n. 46.

being is ordered. Thus, we can only know what is good for the individual person by knowing his desires, that is, what he believes are in his interests. The positivistic mentality rules out the possibility that a person's understanding of his own interests could be mistaken relative to some objective standard, or that a human being may be entitled to certain goods even if he has no actual desires for them. This is why there are people in our societies who believe that a political community that denies a citizen the right to suicide violates the right of that citizen. If there are no basic objective goods to which a human being is ordered, such as the good of life, and if what is good is merely what the individual desires (as long as the fulfillment of his desires does not impede the desires of a similarly situated citizen), then there can be no principled grounds by which a society can reject the right to suicide, given the positivistic mentality. For this reason, as John Paul II notes, such a society "recognizes as a subject of rights only the person who enjoys full or at least incipient autonomy."³

This is why the preborn and, increasingly, the newborn are thought by many, especially among the intelligentsia, to be outside the scope of the moral community. Recently, in the *Journal of Medical Ethics*, this perspective was presented with stunning candor by two Italian philosophers, Alberto Giubilini and Francesca Minerva.⁴ In an article titled, "After-Birth Abortion: Why Should the Baby Live?," they argue, among other things, that both the preborn and the newborn, though human beings, are not persons and thus lack moral status. What they mean by "person" is "an individual who is capable of attributing to her own existence some (at least) basic value such that being deprived of this existence represents a loss to her" (262). It follows from this, according to Giubilini and Minerva, "that many non-human animals and mentally retarded human individuals are persons, but that all the individuals who are not in the condition of attributing any value to their own existence are not persons" (262). Here an argument is being made that if a human being is not presently able to value his own life—as in the cases of preborns, newborns, and those in persistent vegetative states or suffering from degenerative neurological conditions—his life has no objective value.

As the title of their article suggests, the authors want to provide a defense of infanticide, or what they euphemistically call "after-birth abortion." They give it that name because of what they think is a medical problem that abortion is presently not able to remedy: the birth of a handicapped or defective newborn who probably would have been aborted prenatally if its mother had known of the child's abnormality. Because many abortions in fact occur precisely because the mother is made aware of such a diagnosis, and the newborn is no more a person than the preborn, Giubilini and Minerva argue that it is unjust to deny these parents an opportunity to rid themselves of a burden they could have legally eliminated only weeks earlier. Although Giubilini and Minerva readily admit that such newborns are human beings, the newborns, like preborn human beings, are merely "potential persons," for "they can develop, thanks to their own biological mechanisms, those properties which will make them

³ John Paul II, *Evangelium vitae*, n. 19.

⁴ Alberto Giubilini and Francesca Minerva, "After-Birth Abortion: Why Should the Baby Live?," *Journal of Medical Ethics* 39.5 (May 2013): 261–263.

‘persons’ in the sense of ‘subjects of a moral right to life’: that is, the point at which they will be able to make aims and appreciate their own life” (262). But prior to that point, any value they may have depends entirely on their mother’s subjective preference and nothing more.⁵ In other words, such children do not have any intrinsic value or inherent dignity.

Consequently, if a mother believes her child, preborn or newborn, is too much of a burden to her, her society, her family, her other children, or even to her economic well-being, then when the law allows her to terminate the child’s life, the child is not wronged. This is because the child is not mature enough to ascribe value to his own life or to appreciate his own interests. What we have here is an illustration of a civil society which, in the words of John Paul II, “is no longer the ‘common home’ where all can live together on the basis of principles of fundamental equality, but is transformed into a *tyrant State*, which arrogates to itself the right to dispose of the life of the weakest and most defenceless members in the name of a public interest which is really nothing but the interest of one part.”⁶

So without scientism, or what John Paul II called “the positivistic mentality,” it is unlikely that the culture of death would have ever gained traction in many of our societies. Without first undercutting the basis for the sanctity of human life—equal dignity and respect grounded in a human nature that we all share and that is ordered toward certain goods or perfections—the ideas propagated by scholars like Giubilini and Minerva would rarely, if ever, be seriously entertained.

Responding to the Spirit of the Age

How then should we respond to this spirit of the age while remaining true to St. Peter’s command “to make your defense to anyone who demands from you an accounting for the hope that is in you . . . with gentleness and reverence?” There are many ways to go about doing this. However, because one cannot possibly provide, in the space available here, the sort of detailed response that the positivistic mentality and its advocates undoubtedly deserve, I will focus on a few points that are in the spirit of John Paul II’s observation in *Evangelium vitae* that “even in the midst of difficulties and uncertainties, every person sincerely open to truth and goodness

⁵ Giubilini and Minerva write, “It is true that a particular moral status can be attached to a non-person by virtue of the value an actual person (eg, the mother) attributes to it. However, this ‘subjective’ account of the moral status of a newborn does not debunk our previous argument. Let us imagine that a woman is pregnant with two identical twins who are affected by genetic disorders. In order to cure one of the embryos the woman is given the option to use the other twin to develop a therapy. If she agrees, she attributes to the first embryo the status of ‘future child’ and to the other one the status of a mere means to cure the ‘future child’. However, the different moral status does not spring from the fact that the first one is a ‘person’ and the other is not, which would be nonsense, given that they are identical. Rather, the different moral status only depends on the particular value the woman projects on them” (262).

⁶ John Paul II, *Evangelium vitae*, n. 20, emphasis added.

can, by the light of reason and the hidden action of grace, come to recognize in the natural law written in the heart (cf. Rom 2:14–15) the sacred value of human life.”⁷

Let us begin with a simple point about scientism, the belief that made possible the degradation of the person. Recall that scientism teaches that the deliverances of the hard sciences are the only things that we can know apart from mathematics or logic, and thus beliefs about morality, ultimate meaning, or the proper ends of the human person, essential to a sanctity of life ethic, literally cannot be known. But scientism has a fatal problem. It is self-refuting, which means that it is inconsistent with itself, much like the speaker who begins his lecture with the command “Don’t believe anything I say” or the observation “My brother is an only child.” The claim that “the belief that the deliverances of the hard sciences are the only things that we can know apart from mathematics or logic” is itself neither a deliverance of the hard sciences nor a mathematical or logical truth and thus cannot be, on its grounds, an item of knowledge.

If, however, one were to make a distinction between science and non-science and offer reasons for it—how we may, for example, come to distinguish astrophysics from football—one’s conclusion would be the consequence of philosophical reflection, which is apparently an item of real knowledge. That is to say, distinguishing between science and non-science, and showing that distinction can be known, means that scientism is false. This, of course, is something the Church has always taught: science is a way of knowing, but not the only way. Thus, the Church, along with many philosophers of science, rejects scientism. Consequently, it should not alarm us that the methods, presuppositions, and research programs of the sciences are not the methods, presuppositions, and research programs of other knowledge traditions, such as philosophy, theology, literature, or even football. The fact, for example, that human dignity and the basic goods and proper ends to which a human being is ordered are not biological concepts, or things to which we can directly point on an anatomical map of the human body, does not mean that they do not exist or that one cannot know they exist.

Because the law is indeed written on our hearts, even the most ardent critics of the sanctity of life seem incapable of completely ridding themselves of every vestige of the natural law. To make this point, I want to return to Giubilini and Minerva’s account of personhood and harm. Recall that they claim that the newborn and the preborn are merely potential persons and not actual persons because they are not “capable of attributing to [their] own existence some (at least) basic value such that being deprived of this existence represents a loss to [them]” (262). What makes them potential persons, the authors note, is that “they can develop, thanks to their own biological mechanisms, those properties which will make them ‘persons’ in the sense of ‘subjects of a moral right to life’” that is, the point at which they will be able to make aims and appreciate their own life” (262). Thus, because newborns and preborns cannot have aims or appreciate their own lives, Giubilini and Minerva conclude that these human creatures cannot be harmed if they are intentionally killed.

⁷ Ibid., n. 2.

But if we think more deeply about the premises that support this conclusion and what they tell us about nascent human life, they seem to undo Giubilini and Minerva's most important claim, namely, that one can only be harmed if one appreciates one's life and is able to have a plan for it. To show this, I will focus on their use of the term "potential" when they refer to the newborn or the preborn as a potential person. Although they never explicitly tell us what they mean by "potential," we can get a good idea of what they mean from a brief summary of several possible uses.

Persons with Potential

Suppose you build yourself a bed from the oak tree that was in your back yard. You could say that your oak tree was a potential bed, but you would not be using the term "potential" in the same way that Giubilini and Minerva use the term when they say that the preborn or the newborn is a potential person. When they use that term, they mean to say that the human being who undergoes the change from potential to actual person subsists through it, since the human being is a particular sort of substance. That is, the human substance, unlike the oak tree, not only survives the change, but also develops powers that it is intrinsically ordered to acquire. No oak tree is intrinsically ordered toward "bedness," for it actually ceases to exist when it is cut down and its dead parts are used to produce what is now your bed.

The human substance, on the other hand, when it acquires personal powers, becomes a mature version of itself. As Aristotle noted, this is why one should not be surprised that, if one takes a piece of that bed and plants it in the ground, what will sprout up is not a new bed but another tree. This reveals, writes Aristotle, "that the arrangement in accordance with the rules of the art is merely an incidental attribute, whereas the real nature is the other, which, further, persists continuously through the process of making."⁸ Therefore, when Giubilini and Minerva say that the newborn or the preborn is a potential person, they mean to say that "personhood" is a phase in the life of a human substance that remains identical to itself while undergoing this change.

So, even if a human being never arrives at this "personhood" phase because of either immaturity or illness, all human beings are nevertheless ordered toward that end. Take, for example, a human being that is prenatally diagnosed with Leber congenital amaurosis (LCA), "an inherited retinal degenerative disease characterised by severe loss of vision at birth."⁹ We readily acknowledge that such a human being ought to have sight, precisely because we know something about the nature of the human substance: it is a sighted organism by nature, even when it loses the ability to exercise that power. Suppose that gene therapy for LCA was perfected and was

⁸ Aristotle, *Physics*, trans. R. P. Hardie and R. K. Gaye, bk. II, part 1, Internet Classics Archive, <http://classics.mit.edu/Aristotle/physics.2.ii.html>.

⁹ "Leber Congenital Amaurosis: Frequently Asked Questions," *Retina International*, August 24, 2013, <http://www.retina-international.org/eye-conditions/retinal-degenerative-conditions/leber-congenital-amaurosis/>. On its prenatal diagnosis, see Ana Bustamante-Aragones et al., "Early Noninvasive Prenatal Detection of a Fetal *CRBI* Mutation Causing Leber Congenital Amaurosis," *Molecular Vision* 14 (August 4, 2008): 1388–1394.

able to be used on a human embryo suffering from LCA.¹⁰ If the treated embryo then began to develop normally, and it eventually exercised its ability to see when it was mature enough to do so, we would be correct in saying that a human being had been restored to health.

The capacity for sight, like the capacity for personal powers, is not an accidental potential. Each is an essential capacity that all human beings have by nature even if, as we have already seen, an individual human being fails to actualize it due to immaturity or illness. An accidental potential, however, is a *possibility* that we attribute to a human being because of the sort of thing it is by nature. So, for example, if I say that the philosopher J. P. Moreland is a potential Italian citizen or toupee wearer, or that my goddaughter, Phoebe Bernadette, is a potential saint or graduate of the Harvard Medical School, I am merely claiming that because they are beings of a certain nature, human substances, these are real possibilities.

Clearly, Giubilini and Minerva do not mean this sort of potential when they refer to the preborn or newborn as a “potential person.” Their attribution depends on what sort of thing the human being *is by nature* and *not* on the variety of other possibilities that may arise in the life of any particular human being: “Fetuses and newborns . . . are potential persons because they can develop, thanks to their own biological mechanisms, those properties which will make them ‘persons’ in the sense of ‘subjects of a moral right to life’: that is, the point at which they will be able to make aims and appreciate their own life” (262).

Consequently, for Giubilini and Minerva, the preborn or the newborn is a being with a personal nature, whose parts and essential properties are ordered toward certain ends that are perfections of its nature. These essential properties include the capacities for rational thought, moral agency, and personal expression. If this were not so, then Giubilini and Minerva could not issue the judgment that the preborn or the newborn is by nature a “potential person” whose maturation has moral significance. This is why, as I noted above, we would say that the child who suffered from LCA, whose capacity for sight was restored by gene therapy, had been healed. In fact, if the child’s illness had been the result of a crime, we would surely say that the child’s restoration was also an act of justice.

Nevertheless, according to Giubilini and Minerva, because a being can only be harmed if “she is prevented from accomplishing her aims,” and because the preborn and newborn have not arrived at “the point at which they will be able to make aims and appreciate their own life,” they cannot be harmed. However, this *desires-account* of harm, a consequence of the “positivistic mentality” John Paul II so eloquently explained, can be called into question. For it seems to be inconsistent with Giubilini and Minerva’s account of the nature of the sort of potential possessed by nascent human life, that the preborn and the newborn have a personal nature with essential

¹⁰ For an overview of some of the literature in this regard, see “Gene Therapy for Leber Congenital Amaurosis,” National Eye Institute at the National Institutes of Health, August 24, 2013, <http://www.nei.nih.gov/lca/>.

properties whose maturation are perfections of their nature. Take, for example, the following case.

Imagine that scientists working for several biotechnology companies perfect the creation of developmentally altered human beings they call “After Humans” (AHs). The process involves tinkering with the cerebral development of these embryos in utero so that “the point at which they will be able to make aims and appreciate their own life” never arises. These embryos spend the entirety of their gestation in artificial wombs located in laboratories owned by these biotech companies. After they are “born,” these children *seem* to mature normally. As they grow older, they develop greater consciousness and awareness, their ability to communicate becomes increasingly sophisticated, and they are able to perform a greater number of complicated and difficult tasks. However, because of what had been done to them *in utero*, these AHs lack what Giubilini and Minerva believe are “those properties which will make them ‘persons’ in the sense of ‘subjects of a moral right to life.’” For, short of some medical intervention, AHs will remain unable “to make aims and appreciate their own life” and thus will never become “persons.”

The project of creating AHs was initiated by certain elites who wanted to fashion a class of non-rights-bearing human beings who could be used for a variety of tasks for which the “real persons” who inhabit the free market are clamoring: slavery, sex work, organ donation, cannibalism, and such. In fact, advocates of the practice appeal to Giubilini and Minerva’s understanding of personhood to justify this use of human beings: “The alleged rights of individuals . . . to develop their potentiality . . . is overridden by the interests of actual people (parents, family, society) to pursue their own well-being, because . . . merely potential people cannot be harmed by not being brought into existence” (263).

Other citizens, however, strongly object to the practice and argue that AHs are in fact rights-bearing human beings entitled to dignity and respect. Lacking confidence in their political institutions, these citizens form opposition groups that plot to rescue as many AHs as possible and restore them to health. To accomplish this end, these pro-life radicals break into numerous biotech laboratories where the embryo-AHs are resting comfortably in artificial wombs. Thousands of them are transported by these radicals to a secret collection of laboratories located in a subterranean cavern underneath St. Peter’s Basilica in Vatican City. After they arrive, the embryos are worked on by scores of pro-life scientists who restore them to normal development. After they are “born,” these children are adopted by loving families.

According to Giubilini and Minerva, “it is not possible to damage a newborn [or preborn] by preventing her from developing the potentiality to become a person in the morally relevant sense” (262). Yet the story of the AHs seems to prompt a contrary judgment. For did not the pro-life scientists take damaged prenatal human beings and restore them to health so that they might be able to express those essential properties—including the capacities for moral agency, rational thought, and personal expression—the maturation of which are the perfections of their nature? Put in those terms, it would seem that the pro-life radicals, in cooperation with the pro-life scientists, had acted in charity for the good of others. In that case, it would seem to follow that the injuries that these acts were performed to remedy—that is,

the embryos being turned into AHs in utero by the biotech scientists—were real harms. Consequently, contra Giubilini and Minerva, it is indeed possible to damage a newborn or preborn human being by preventing her development, even when she has no aims or cannot appreciate them.

Written on the Heart

Besides abortion and infanticide, there are, of course, many other matters that *Evangelium vitae* addresses, including conscience, euthanasia, assisted suicide, poverty, and the death penalty. Nevertheless, as my assessment of Giubilini and Minerva’s argument is intended to illustrate, the Church’s moral judgment on all these matters rests on its understanding of the nature of the human person.

The point of my analysis of Giubilini and Minerva’s argument is to model how one may draw out this anthropology from even those who seem to have no sympathy for what the Church teaches. It shows that even within the deep recesses of a case hostile to the sanctity of human life, one finds a glimmer of John Paul II’s claim that the Gospel of Life is “written on the heart of every man and woman, has echoed in every conscience ‘from the beginning,’ from the time of creation itself, in such a way that, despite the negative consequences of sin, it can also be known in its essential traits by human reason.”¹¹

Consequently, our task, when making the case for life among those who do not share our Christian and Catholic faith, is to appeal to those intuitions, sometimes latent though never absent, that remain written on their, indeed our, hearts. In this way, we obey St. Peter’s counsel to “always be ready to make your defense to anyone who demands from you an accounting for the hope that is in you; yet do it with gentleness and reverence” (I Peter 3:15, 16a, NRSV).

¹¹ John Paul II, *Evangelium vitae*, n. 29.