

Does "the future of humanity pass by way of the family"
(Familiaris Consortio, 75)?

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The Church replies with a resounding "Yes!" and for many reasons, but there is one reason in particular that will be the focus of my attention today, namely, the Church's conviction that because the family is a community of persons united by charity, it is the privileged place within which we learn the meaning of the radical acceptance of the other and of sacrificial love. These values, which are central to a humane civilization, are especially fragile in our culture, which is given to the most tentative of commitments to one another. In this session I would like to explore the Church's conception of marriage and the family as the bearer of unconditional love

and service premised upon irrevocable bonds in precise contrast to the contingent connections one finds in liberal theory and, increasingly, contemporary practice.

Let me begin with an illustrative anecdote. Last fall, after several visits to my obstetrician, I had the thrill of seeing our baby (whom we now know as John) via ultrasound. The little one was probably about ten weeks along, heart vigorously beating, limbs moving about—every inch alive and stirring. I was touched by how gingerly the doctor maneuvered the ultrasound machine, carefully recorded the baby's measurements, and spoke about his development. He was doing everything in his power to support our child. Then, with the ultrasound image safely out of sight, he raised the issue of fetal testing. And I perceived a decided shift in his

tone. No longer affectively connected to my baby, the very one of whom he was so solicitous thirty seconds before, he was now speaking in a very different idiom, acting in a bizarre and counter-intuitive way. When I replied that my husband and I would only seek genetic testing if a therapeutic intervention for the baby were possible, he coldly—and uncharacteristically—clarified that, no, the tests were essentially for purposes of “termination.” “Termination.” The word sent shock waves through my system, and I felt at once an intense maternal instinct to protect my baby *and*, I am ashamed to say, an eery sense of distance from him, for the doctor has just suggested in no uncertain terms that I did not have to maintain my bond with this child. My maternal love and hospitality could be contingent, dependent upon *my*

disposition, *my* preference. The once-warm and welcoming office—celebratory of life and motherhood—became at that instant a sterile, grey chamber of judgment.

Now, pro-life convictions run all the way down in me, so there was no chance that I would accept his proposal, but what scared me was the schizoid character of the doctor's relationship to my baby and the sense of alienation I felt from my child as a result. It took the drive home and a bear hug from my husband to shake off the chill and begin to process what had happened. Here is where my background in political theory, believe it or not, helped. How is it that my humane and good doctor could have suggested what he did? It is not because he is a moral monster. Rather, I think that he has been shaped decisively—both as a citizen and as a physician—

by procedural liberalism, our dominant public philosophy. This is the theory, often implicit, that tells us who we are as a people, what we're about as a nation, what freedom is and what law and government should do. It is, despite its putative modesty, a comprehensive vision of human life, and it works with a deeply distorted anthropology that jeopardizes the foundation of a humane civilization.

The basic atomism underlying liberal political theory becomes clear when one considers its central heuristic device: the social contract. The parties to the contract are individuals, not couples, not families, not kinship groups. Individuals who, before making their self-interested compact, view one another suspiciously as threatening to their lives and property. It is a grim scene, famously described by Hobbes,

of course, as a life that is "solitary, poore, nasty, brutish, and short." Society in the liberal tradition does not emerge organically; it is the fiat of individual wills, and its *raison d'être* is negative; society is constructed to remedy what Locke calls the "inconveniences" of the state of nature.

As sociologist Robert Nisbet observed of liberalism's anthropology, it was inspired by the model of Newtonian mechanics, which prompted liberal theorists to envision man according to the terms of Enlightenment science: man as matter in motion, the self-sufficing and independent individual as the atom—the basic unit of social reality. Human associations would be considered secondary, derivative, and conventional. Those that were not the product of conscious agreement by contract were taken to be unnatural limitations

upon human freedom. "A free society," in consequence, would be "one in which human beings were morally and socially, as well as politically, free from any kind of authorities and institutional functions." As Nisbet explains, "The ideal, insensibly, became one of a vast mass of individuals separated from one another in social terms, participating only through the impersonal mechanisms of the market and the legal state."¹

The basic individualism at work in liberalism's conception of political bonds also penetrates its understanding of marriage and the family. To take only two representative examples, Locke quite strikingly—given the age in which he was writing—favorably entertains the notion that the

¹ Nisbet, "Moral Values and Community," in *Tradition and Revolt*, 136.

marriage contract is limited and revocable. Its principal end being the procreation and rearing of children, once the couple's offspring reach maturity, the reason for the union disappears. And so Locke wonders why the conjugal bond might not be made, as he puts it, "determinable, either by consent, or at a certain time, or upon certain Conditions, as well as any other voluntary Compacts, *there being no necessity in the nature of the thing*, nor to the ends of it, that it should always be for life" (Second Treatise on Government, VII).

What Locke proposes for marriage, Rousseau likewise proposes for the family. "The most ancient of all societies and the only natural one, is that of the family." So far so good. But wait. "Even so children remain bound to their father only so long as they need him to take care of them. As

soon as the need ceases, the natural bond is dissolved. Once the children are freed from the obedience they owed the father and their father is freed from the care he owed his children, all return equally to independence. If they continue to remain united," he adds, "this no longer takes place naturally but voluntarily, and the family maintains itself only by means of convention" (Social Contract, Ch. 2).

Once again, we see that liberal theory's conception of man is basically individualistic and for this reason incapable of sustaining an enduring vision of marriage and the family. Perhaps this would be no great loss if it were confined to the realm of theory; if it were an intellectual curiosity of sorts. But, in fact, liberalism's anthropology has been hugely influential on the thinking and practice of Western culture

and, I dare say, on America in particular. One finds its influence wreaking havoc on marriage law beginning forty years ago when California—where else?—adopted the nation's first no-fault divorce statutes. Gone were the moral considerations that had previously governed the state's judgments. Marriage law in the U.S. had traditionally permitted civil divorce only in cases involving a "serious breach of moral duties, such as adultery, cruelty, or desertion" (Democracy's Discontent, 109). Now, a marriage could be dissolved unilaterally by appeal to "irreconcilable differences," and what had been understood as a "right to remain married" was now trumped by a new "right to divorce." As Michael Sandel helpfully summarizes, "The old law treated persons as situated selves, whose identity as legal persons was tied to

their roles as husbands, wives, and parents. The new law loosens the relation between the self and its roles; it makes family roles easier to shed and relaxes the obligations that attach to them" (112).

Nowhere is the tentativeness of liberalism's attachments more destructive than in the area of privacy jurisprudence. One finds in the Supreme Court's reflections on the "right of privacy" a marriage of liberalism's fundamental tenets: state neutrality and individual autonomy.² Interestingly, the story of privacy jurisprudence reflects a dramatic shift from an older, civic republican defense of privacy to a novel, liberal defense.

² Sandel, 91. The summary of privacy jurisprudence that follows appears in my essay on Catholic social thought in *Christianity and Civil Society: Catholic and Neo-Calvinist Perspectives* (Lanham, MD: Lexington Books, 2008). It is used with permission.

Traces of the older view remain as late as 1965 with the famous contraception case, *Griswold v. CT*. Here we find the Court's first explicitly *constitutional* recognition of the right of privacy. Yet, this right is defended upon traditional grounds. The Court does not deny Connecticut's right to adopt a view of the good, or to legislate in such a way as to foster a certain conception of virtue. It recognizes the state's right to regulate the *distribution* of contraceptives, though it denies it the right to regulate their *use*. But this restriction on state power is not justified on the basis of a "right to use contraceptives"³ but rather on the grounds that the social institution of marriage constitutes a privileged sphere that commands a degree of privacy violated by the Connecticut law. Thus the privacy right was invoked to

³ Sandel, 95.

preserve a social institution, the community of husband and wife. To the extent that *Griswold's* affirmation of privacy did not entail a putative "right to contraception" and to the extent that the decision continued to affirm the state's role in cultivating character, the pedagogical function of law, and the natural goodness of the marriage bond, it squares with Catholic social teaching. This convergence, though, was to be short lived. Privacy jurisprudence would soon take on a very different foundation.

Less than ten years later, the Court abandons these tenets and strikes down a law restricting the distribution of contraceptives to unmarried persons. *Eisenstadt v. Baird* now adopts a liberal defense of privacy and, in Sandel's words, "redescribe[s] the bearers of privacy rights from persons

qua participants in the social institution of marriage to persons *qua* individuals, independent of their roles or attachments."⁴ The decision also expands the concept of liberty from the more restricted notion of freedom from surveillance to the much larger notion of freedom to engage in certain activities without government restrictions. "The Court," Sandel writes, "protected privacy . . . not for the social practices it promotes but for the individual choice it secures."⁵

The most controversial application of the right of privacy occurred one year later, of course, in the famous 1973 case of *Roe v. Wade*. Here we see the triumph of the procedural liberal view of individual autonomy and the neutral state. In

⁴ Sandel, 97.

⁵ Sandel, 97.

its decision, the Court affirms the right of privacy to mean the right to make certain sorts of choices—in this case abortion—free from state interference. And it uses the language of autonomy to describe the privacy interest at stake. Privacy rights do not depend upon the virtue of the practice engaged in, but rather on the principle that the individual exercises free choice in intimate matters.⁶

Though *Roe* was a legal watershed, a later case most dramatically marks the shift to a liberal conception of the person and politics. It is the Court's 1992 decision in *Planned Parenthood v. Casey* that evinces the depth of the liberal hegemony described by Sandel and the hold it has on the legal imagination with respect to human freedom, social relations,

⁶ Sandel, 99-100.

and the proper role of the state. By way of a brief summary, the majority decision in *Casey* sustained the fundamental right of abortion as a matter of substantive due process. So, the Court struck down several provisions of a Pennsylvania law that placed certain constraints, such as spousal notification, on the abortion process. What is striking in this case is not simply the fact that the justices admit the fallibility of *Roe*, or that they offer a crudely utilitarian defense of the availability of abortion, though these are striking enough. What is especially noteworthy is the Court's anthropology operative in the now famous, or infamous, "mystery passage."

At the beginning of their decision, the majority solemnly warns that "[l]iberty finds no refuge in a jurisprudence of doubt." Then the justices note that although the right to an

abortion has been nationally protected for nearly twenty years—recall this is a 1992 decision—“that definition of liberty is still questioned.” The Court supplies one. Enter the “mystery passage.” According to the justices, the Fourteenth Amendment’s due process clause protects the freedom to make choices “central to personal dignity and autonomy.” Indeed, the Court continues, “[a]t the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.”⁷

The High Court has embraced a radically subjectivist epistemology that undermines the legitimacy of law per se

⁷ *Planned Parenthood v. Casey*, 112 S. Ct. 2791 (1992).

and, ironically, of its own status as the definitive interpreter of the law. It has also embraced a conception of human relationships infected by the chilling individualism we encountered in the contractarians' state of nature. The individual agent's reasoning and decision is paramount. As the justices put it, "The destiny of the woman must be shaped to a large extent on her own conception of her spiritual imperatives and her place in society."⁸ It is the autonomous decision of the woman that determines the character of her relationship to her unborn child. The demands of human solidarity—especially to the most vulnerable—that arise simply from natural bonds form no part of the Court's rationale. They are, rather, cordoned off, denied their imperative character, and made the object of individual

⁸ *Planned Parenthood v. Casey*, 112 S. Ct. 2791 (1992).

choice. Likewise, in the Court's rejection of Pennsylvania's spousal notification provision, one sees that the marriage relationship and the natural bonds between father and child are denied legal significance. The individual agent is the sole determiner of meaning and value, which is, of course, to say that meaning and value have now been lost and with them the grounds for the unconditional love and service that I mentioned at the outset of my remarks.

Yes, indeed, the future of humanity passes by way of the family—rightly understood. Because it is only within the family as the Church understands it that the great humanizing values jeopardized by the political theory and practice of liberalism can be nurtured. As Pope John Paul II noted in *Christifideles Laici*, God designed the family as "the primary

place of humanization for the person and society." It is, as he puts it, the "cradle of live and love" in which children receive their human formation, first hearing the *Gospel* announced through the words and witness of their parents, encountering truth and goodness, and experiencing what it means to love and be loved.

In light of the values rendered especially vulnerable by liberalism, namely, the radical acceptance of the other and sacrificial love, the latter is particularly important, for it is in the family that the child learns two fundamental principles: first, that he is valuable simply because he exists and, second, that our duties to one another "are not limited by the terms of a contract" (*Compendium*, 96).

In a remarkable essay in *Explorations in Theology*, Hans Urs von Balthasar elaborates upon the first of these, noting that “[t]he little child awakens to self-consciousness through being addressed by the love of his mother”(15). The mother’s smile conveys to the child “her whole gift of self,” which in turn summons forth the “I” of the child. The little one, Balthasar writes, “does not ‘consider’ whether it will reply with love or nonlove to its mother’s inviting smile, for just as the sun entices forth green growth, so does love awaken love; it is in the movement toward the ‘Thou’ that the ‘I’ becomes aware of itself” (16). The child recognizes at the deepest intuitive level that it has not generated itself but has received its life as a gift. But the fact of having received its life does not generate anxiety because of the profound

affirmation conveyed by the mother's smile. Gratuitousness characterizes both the existence of the child *and* the mother's love. As Balthasar explains, "the summons by the mother is not addressed to something *in* the child but to the child itself beyond the sum of its qualities (which it can share with other children)." "[P]recisely in the reality of the 'I' of the child," Balthasar continues, "it experiences at the same time that my 'I' is loved, is lovable for my mother, and that my reply can lie only in the gift of this 'I'—together with all that may belong to it" (16). How radically different is this conception of the maternal bond from that found in the *Casey* decision and the examining room of my obstetrician! What the Church and Balthasar understand so profoundly is that life, everyone's life, is a gift. It cannot be earned, merited by

some perfection or set of attributes; nor can it be forfeited on the basis of some apparent deficiency. It can only be served and celebrated. Balthasar, again, articulates it well: We have an "awareness. . .of a permission to exist that can never be mastered, never taken into one's own possession, an awareness of the gracious favor that grants access and entry to the realm of Being as a whole. This awareness," he observes, "is joined to the primal experience that one has arrived at participation in the world fellowship of beings by means of a summons coming from outside one's own 'I.' It is not through the perfection of one's own power that one has entered this fellowship" (19).

The world of prenatal testing and abortion jurisprudence suggests that one's value is radically contingent, contingent on

the assessment of one individual. The Church insists, by contrast, that one's value is of divine origin, independent of any human evaluation. And she teaches that it is in the heart of the home where this crucial truth is learned. *As Familiaris Consortio* makes clear, it is there, in the family, that an unconditional respect for the dignity of the child is communicated, all the more so when the child is "sick, suffering or handicapped" (FC 26) and calls forth sacrificial love in even greater measure.

The family, then, is a crucial witness to the kind of relationships rooted in Christian love, relationships "lived in gratuitousness," which, in John Paul II's words, "takes the form of heartfelt acceptance, encounter and dialogue, disinterested availability, generous service, and deep

solidarity" (FC 43). But the ability of the family to practice these counter-cultural virtues depends on another, equally counter-cultural reality, namely, the fact of marriage as an indissoluble union. The radical acceptance of the other that the family makes possible in the case of children is necessarily preceded by the total self-gift of husband and wife. And, contrary to the claims of liberalism, this mutual gift is of its very nature irrevocable. It is a pledge of enduring love and loyalty, acceptance and service.

The priority of spousal love as the foundation for parental love is well expressed by Antonio Sicari in an illuminating article called "The Family: A Place of Fraternity." Sicari contends, I think convincingly, that the child's first concern is *not* whether his mother or father love him. Rather,

as Sicari puts it, "the important thing is to experience the love the father has for the mother and the love the mother has for the father. It is upon this that the child perceives his own origins, even if in an obscure manner" (301). The child, in other words, learns from the mutual love of his parents and the totality of their self-gift that his own being has been generated in love and is good. For Sicari, it is the fidelity of the spouses and the indissolubility of the marriage covenant that elevates the family from a natural community to an icon of Trinitarian love.

And Trinitarian love is the ultimate ground of the values uniquely embodied in Christian marriage and family life. It is the only solution to the problems posed by liberalism. Recall that a liberal anthropology is at root atomistic, which accounts

for the basic fear of human relationships at work both in its political theory and its conception of marriage and family.

Binding ties to another—citizen, spouse, unborn child—threaten one's autonomy; hence the need to render all such relationships contingent. If, as Nisbet contended above, the individual in liberalism is the fundamental reality, and if all social relationships are thus derivative, the product of the will, then it is no surprise that the logic of liberalism leads to the tentativeness of every tie.

On the other hand, if we are made in the image and likeness of a God who is a communion of persons, then intimate relationships are not only *not* threatening to our well-being but are in fact are our greatest fulfillment. This, it seems to me, is one of the most timely and important insights of the

theology of the body. John Paul II illuminates so powerfully how the body itself reveals the Creator's design for human communion. Inscribed into our physical being is an orientation toward the other. As JP II insists, the complementary form of the male and female body discloses that man and woman were created to be a *gift* to one another. God's presentation of Eve before Adam and his exuberant response convey this vividly. Indeed, for JP II, to give oneself to another in a gesture of self-gift is the highest expression of our freedom and the moment in which we most closely resemble the divine persons of the Trinity. And when—transcending the terms of any contract—we undertake the radical service which this love entails, we need not fear the diminution of our persons because Christ has already shown

definitively that the costly sacrifice demanded by love brings glorious resurrection.

In closing, it becomes clear that the values of unconditional love and service so threatened by liberal theory and practice can only be recuperated in the Christian family, which is a living witness to the gratuity and goodness of existence.

That such a witness is, indeed, possible was brought home to me recently, and in recounting it, I will close where I began, though this time with the story of a very different kind of obstetrician. One of my dear friends, a mother of seven, went to her doctor when she happily discovered that she was pregnant with her sixth child. When the ultrasound detected a heart defect indicative of Down's Syndrome, her

obstetrician, a warm Irish Catholic physician of the old school, took her gently by the hand and offered comfort in his quintessentially Irish way, saying, "What are you gonna do? You just love him!" And that is exactly what she did.