

ABORTION AND DELIBERATION:
REJOINDER TO TALISSE AND MALONEY

ABSTRACT: *Talisse and Maloney seem to think that professors, not ordinary citizens, are the key to a more deliberative democracy. Yet these professors fail to appreciate the reasonableness of the pro-life activists and thinkers they disagree with. For example, they falsely charge even the most deliberative groups with resurrecting an obsolete debate and framing conversations in a fallacious way. They further place an unreasonable justificatory burden on pro-life activists and hold them culpable for framing the debate around the ontology of the embryo (even though many prominent pro-choice thinkers prefer this frame). In drawing such a hard line between academics and activists, they also miss what has been an unavoidable partnership between academics and social movements in our imperfect deliberative republic.*

I am grateful for Robert T. Talisse and Steven Douglass Maloney's response to my article on abortion and deliberation, and for the opportunity to reply.

Talisse and Maloney challenge my argument on "methodological, deliberative, and philosophical grounds." In other words, they could not disagree more with my account of abortion politics and the lessons I derived about democratic deliberation. I will try to clarify my argument, identify common ground and misunderstandings, as well as address larger concerns beyond the abortion debate.

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Scope and Method

Talisse and Maloney claim that my article suffers from three major methodological problems: “generalizability, case selection, and accommodation of contradictory data.” I will address each concern in turn.

I claimed that the efforts of Christian apologetic organizations, such as Stand to Reason, and campus groups, such as Justice for All and the Center for Bioethical Reform, are part of an “enormous” effort to “create deliberative conversations about abortion across the country.” Talisse and Maloney insist that my participant observation “cannot possibly justify such claims.” I agree, which is why I pointed not only to the week I spent in Denver observing and talking to evangelical activists, but to a number of other facts about the nature of the organizations I observed.

Stand to Reason, for instance, is the largest training organization in the Christian Right. It reaches tens of thousands of ordinary citizens every year in churches, crisis pregnancy centers, and other pro-life organizations. Meanwhile, campus groups such as Justice for All and the Center for Bioethical Reform have visited over one hundred campuses. I can think of no comparable effort to draw citizens into philosophical discussions over abortion. Finally, I have shown elsewhere that these efforts are not unique to these groups (Shields 2007a): Elites in a wide variety of Christian Right organizations encourage their activists to embrace deliberative norms.

Talisse and Maloney further argue that the campus outreach I discussed “may be different from abortion demonstrations in other settings.” Agreed. Thus, in the second paragraph of my article, I noted that the abortion conflict has been “marked by public passions, especially in the pro-life camp,” and then I discussed the once-prominent rescue movement. Later, I argued that “other varieties of pro-life activism . . . are usually not so well organized or as committed to moral and philosophical dialogue.” I then referred the reader to a paper I wrote that draws on participant observation of a wide range of pro-life activism, including sidewalk counseling, marches, counterdemonstrations, and direct action (Shields 2005). There I show that deliberative norms are embraced with varying levels of success by pro-life activists. Talisse and Maloney will be pleased to discover that I have *oversampled* pro-life *radicals* in this work.

Why, then, did I highlight some pro-life groups’ deliberative efforts?

First, these groups are part of an undernoticed campaign to create serious dialogue on abortion. In this respect I tried to correct for selection

bias: past scholarship has tended to focus on the most sensational and militant activists. Second, focusing on the most exemplary examples of moral dialogue struck me as a great way to explore the promise and limits of deliberation in public life. What better way to show that, as I emphasized, there are serious limitations to the deliberative ideal, even in the best of circumstances? Third, although I noted that these groups are unusually committed to promoting deliberative discussions, they also highlight deeper asymmetries between the pro-life and pro-choice movements. Talisse and Maloney seem to find this argument most objectionable, so I will give it special consideration.

Perhaps the most provocative claim I made was that the pro-life movement is more committed to creating civil public spaces for moral discourse than the pro-choice movement. Talisse and Maloney suspect that I drew this conclusion by highlighting the best instances of pro-life activism instead of considering contrary evidence. Yet however marginal Talisse and Maloney believe groups like Stand to Reason are within the pro-life movement, there is nothing comparable in the pro-choice movement. There are simply no organizations devoted to providing pro-choice activists with a serious philosophical education or creating philosophical conversations. Indeed, as I pointed out, most major pro-choice organizations have something close to a no-debate policy.

Nonetheless, Talisse and Maloney seem to imagine that there is comparable training in deliberative norms in the pro-choice movement. Their evidence is that escorts at abortion clinics receive training. These escorts, however, are generally trained to *not engage* pro-life activists in bioethical conversations. Talisse and Mahoney's search for evidence of a democratic education comparable to what many pro-life activists receive instead unearths a bit of counterevidence.

To be sure, as I said in the paper, it is also true that radicalism was once more pronounced in the pro-life movement. There has been nothing comparable to the pro-life "rescue movement" in the pro-choice camp. Such asymmetries can partly be explained by the incentives facing both movements. The right-to-life movement seeks revolutionary change in public opinion and policy to a far greater extent than does the pro-choice movement. This has led both to militant direct-action tactics *and* a variety of relatively deliberative modes of moral suasion. The pro-choice movement, on the other hand, is a conservative movement that defends the status quo. Pro-choice advocates have little to gain from engaging their opponents in dialogue, or from adhering to deliberative norms that

facilitate persuasion. And, of course, they are not interested in what so many rescuers used to describe as “breaking the system.”

Talisse and Maloney stumble upon this truth when they note that pro-choice advocates are concerned with the *legal* issues that abortion conflict raises and not the *moral* ones. While I disagree that the pro-choice movement’s emphasis on legal concerns is as philosophically driven as Talisse and Maloney believe, it is true enough that the pro-choice movement is largely invested in protecting *Roe v. Wade* rather than with facilitating moral conversations about bioethics.

Talisse and Maloney further fault me for neglecting Kristin Luker’s (1984) canonical work on the abortion conflict. In fact, they regard this oversight as a critical instance of my larger failure to consider contrary empirical evidence. In other places, I have been very critical of Luker. In fact, I can think of no other scholar who has more distorted academics’ perspective on the abortion conflict.¹ But I did not mention her work in this context because I did not think it relevant, and Talisse and Mahoney fail to explain exactly what relevance it might have.

The Myth of Religious Arguments in Abortion Politics

Talisse and Maloney doubt that pro-life activists, even those at Justice for All and Stand to Reason, tend to follow the deliberative requirement of reciprocity by offering nonsectarian grounds for their views.²

I encourage them to suspend their disbelief until my book on the subject appears later this year. In the meantime, perhaps they would be persuaded by other evidence. Elsewhere I have taken a broader stab at this question (Shields 2006; Shields 2007b) and found that it is actually members of the bioethical left who try to frame critical bioethical questions as essentially religious. They do so largely for strategic reasons. After all, if bioethical questions are trapped in the darkness of sectarian metaphysics, then they are safely beyond legitimate public debate. The clear implication of such arguments is that philosophy and science can shed little light on the morality of abortion.

Yet pro-choice advocates have provided no justification for taking such a dim view of human reason. Worse still, they have quietly undermined the entire enterprise of bioethics, which must begin with the assumption that human reason *can* illuminate bioethical questions. Similarly, pro-life advocates do not want to be marginalized from public life,

so they argue that reason and science should win the day. Nonetheless, many pro-choice observers of bioethical politics continue to insist that it is “the right” that is undermining deliberation, by deploying religious arguments in the public square. For example, editorials in the *Washington Post* and *New York Times* have accused President George W. Bush and his allies of advocating “stem-cell theology” in their case against embryonic stem cell research.³ Yet they offered almost no evidence for this assertion. The only exception was an op-ed by Jerome Groopman (2005), a professor at Harvard Medical School. Groopman highlighted the following remark by former Republican House leader Tom DeLay as evidence for a stem cell theology: “An embryo is a person, a distinct, internally directed, self-integrating human organism. We were all at one time human embryos ourselves. So was Abraham. So was Muhammad. So was Jesus of Nazareth.” DeLay, however, was elaborating not a theological claim but a scientific one—that “a distinct, internally directed, self-integrating human organism” exists at conception. Thus, regardless of one’s religious beliefs, if one values human life, one should oppose embryonic stem cell research.

Why do critics continue to insist that the pro-life movement tends to make theological arguments in the public square? Where is their evidence? Perhaps they are simply assuming that the private religious beliefs of pro-life activists are reflected in their public arguments. But what possible incentive would religious believers have to make theological arguments in the public square? After all, they want to persuade citizens who disagree with them. Making theological claims would only alienate these citizens and play into the hands of their opponents. This is why a growing literature has shown that Christian movements in American history have tended to embrace Gutmann and Thompson’s norm of reciprocity.⁴

In any case, it is not enough to simply *assert* that right-to-life advocates are theocrats. Critics need to pay attention to what pro-life activists are actually saying in the public square. To insist falsely that the other side is not making serious arguments worthy of public consideration further undermines deliberation on bioethical questions.

The Norms of Public Reason

Talisse and Maloney contend that the pro-life movement confronts a special justificatory burden because it seeks to coerce “free and reasonable

citizens” who do not share the fundamental moral premises undergirding opposition to abortion. For this reason, they object to the Socratic method used by evangelical activists since it “implicitly” burdens pro-choice citizens with justifying their stance.

This objection fails to appreciate the inevitable give-and-take in these settings. More importantly, it ignores reasonable pro-life citizens, including those at Stand to Reason and Justice for All, who believe that the pro-choice movement confronts special justificatory burdens of its own. On its face, it would appear that the justificatory burden for the pro-choice movement is actually far greater, since the deprivation of life is more serious than the denial of liberty. Put differently, if we might be responsible for the death of tens of millions of human persons, as pro-life advocates believe is the case if we allow abortion to continue, perhaps we should err on the side of philosophical caution and be more certain of the pro-choice case. Talisse and Maloney’s claim is patent only if they can demonstrate the implausibility of the claim that abortion unjustly deprives persons of their basic right to continue living. This is a burden they have not met.

Talisse and Maloney further suggest that the pro-life movement confronts a special justificatory burden because its “fundamental moral premise” is a religious one. The reality is far more complicated. The moral premise of the pro-life movement is that human organisms have an intrinsic value independent of the characteristics that they may or may not acquire. To be sure, some pro-choice philosophers, such as Peter Singer, emphatically deny this premise. Singer makes an interesting case that the pro-life premise is “speciesist” and basically Christian—hence, according to Rawlsian norms of public deliberation, unacceptable. Yet even if the assignment of intrinsic value to all human organisms is historically rooted in Christianity, it has surely been given a sort of secular baptism by many centuries of liberal culture. This is perhaps why the pro-choice movement has been reluctant to deny the intrinsic worth of human organisms, which may in part explain the rift between pro-choice academics and activists. It also suggests that the tidy distinctions advocates of public reason would like to make between the secular and the religious are not always so simple.

In any case, groups such as Stand to Reason and Justice for All are not trying to coerce citizens. Certainly they would if they could. But their mission is to change hearts and minds in the hope of reducing the abortion rate. This fact highlights a central irony in the abortion fight. While

the left has long argued that the personal is political, it turns largely to elite allies to protect its interests. And while the right, in this case, ultimately wants greater governmental intervention, it spends most of its time trying to change hearts and minds.

Philosophical Issues

Talisse and Maloney argue that pro-life leaders undermine deliberation by framing the debate in a fallacious way. In particular, they take issue with “the inference that unless a morally relevant difference between fetuses and newborns can be demonstrated, fetuses are no morally different from babies.” Talisse and Maloney incorrectly believe this view is “notoriously fallacious.” In fact, it is the starting point of many pro-choice philosophers, such as Michael Tooley (1984) and Peter Singer (1993), who believe that it is the decisive moral question in the abortion debate. This is why they have expended so much intellectual energy identifying morally significant distinctions between embryos and children. Pro-life activists have simply followed the lead of academics on both sides of the abortion controversy.⁵

It is true enough that pro-life organizations in general do not give Judith Jarvis Thomson’s (1971) famous argument the attention it deserves, though they do give it some. Moreover, I should have discussed her seminal essay more than I did. Talisse and Maloney are right to raise these concerns.

For those unfamiliar with Thomson’s essay, it offered a creative defense of the right to abortion through an inventive thought experiment. Thomson invites the reader to imagine that he has been captured by a society of music lovers. His kidneys are then attached to a famous violinist in order to preserve the violinist’s life. Thomson asks: Is it legitimate to detach oneself from the violinist? She concludes that we have the right to do so, even though the violinist is unquestionably a person.

But I disagree with Talisse and Mahoney that neglect of the Thomson parable means that pro-life advocates have ignored the “more powerful pro-choice arguments,” and even less with the assertion that the debate over personhood is now “obsolete.” On what grounds can they possibly make such claims?

The debate over personhood is actually more relevant than ever, thanks to advances in embryonic stem-cell research. After all, adult

bodies are not especially relevant to the status of the embryos that are the source of stem cells. Therefore, the controversy hinges almost entirely on the moral status of the embryo. Thomson's argument, moreover, has been badly bruised by subsequent writers, especially Patrick Lee (1996). For what it is worth, my pro-choice students tend to find Singer's and Tooley's defenses of abortion far more credible than Thomson's, largely because her famous violinist differs in morally significant ways from a pregnant woman.

Talisse and Maloney do not like the way pro-life groups attempt to frame the abortion debate. But their objection is based on an assertion of academic authority. There is not a neutral, "expert" way to decide whether this particular debate should be framed around the moral status of the embryo or around Thomson's seminal article. Many pro-choice thinkers even prefer the way pro-life activists have framed the debate.

A related problem is that pro-choice advocates are not disseminating the best pro-choice arguments from the academy. In the pro-choice world there is nothing, for instance, that is comparable to a Stand to Reason: no pro-choice organization seeks to train pro-choice citizens in bioethics. If there were such an organization, Thomson's argument would enjoy the airing it undoubtedly deserves.

Dialogue and Abortion

Talisse and Maloney regard the pro-choice movement's opposition to public debate as "no surprise," given the "light-to-heat ratio of most public debate about abortion." I can only infer that they believe that the pro-life movement would generate heat in such debates, while the pro-choice movement prefers light. I simply find this assertion implausible. The sorts of strategic incentives that I have already highlighted, and the conservatism of the pro-choice movement in particular, seem like far more plausible explanations for the unwillingness of pro-choice activists to debate their position. I begin with the assumption that political movements fear losing, not heated confrontations. Moreover, if the pro-choice movement seeks light above other ends, then why doesn't it at least train its rank-and-file in bioethics?

I have suggested a number of factors that make sense of these discrepancies. First, I argued that the pro-choice movement defends the status quo, and is therefore not very interested in moral suasion. This is not a

particularly controversial view, and has been echoed by others, especially Eileen McDonagh (2005).

Second, I suggested that the best pro-choice arguments suffer from political liabilities, which I did not explicate as well as I could have. Pro-choice arguments in favor of the conclusion that there are human organisms (such as fetuses) who lack moral “personhood” status accept the legitimacy of infanticide, since the self-consciousness that is supposed to confer personhood develops well after birth. The endorsement of infanticide is a serious political shortcoming, whatever its intellectual merits. How can pro-choice advocates downgrade the moral status of the fetus without embracing the very arguments that make such an intellectual claim plausible? Talisse and Maloney don’t answer this question.

Thomson’s argument might have better political success. But it comes with its own political problems. Thomson (1971, 47) is willing to concede the pro-life movement’s ontological case for the sake of argument. In fact, she argues that the “prospects for ‘drawing a line’ in the development of the fetus look dim.” Whatever its philosophical merits, this is obviously a concession that the pro-choice movement has not been willing to make.

Thus, the broader problem may be that the best pro-choice arguments do not get the airing they deserve because of the political problems they create for the very movement they are trying to aid. This is not the fault of academics or activists, but it does present pro-choice thinkers with certain intellectual challenges. It also highlights precisely the sort of tension between democracy and deliberation that I have tried to take seriously in much of my work on the culture wars. *It is entirely possible that sound arguments will be too politically unpalatable ever to be made in public forums.* This would pose a deep problem for deliberativist defenses of democracy.

Talisse and Maloney further insist that “deliberative democracy does not require that every citizen stand willing to debate at any moment.” I agree. But doesn’t deliberative democracy demand that *someone* be willing to debate some of the time? How else would the activists in organized interest groups acquire the “reasonable” arguments on which deliberative democracy depends (save through one-sided, close-minded indoctrination in “the truth”)? More importantly, an open public debate would benefit the vast majority of more ambivalent Americans, who think about abortion far less than activists do.

In their rush to argue that the pro-choice movement has not compromised deliberative ideals by refusing to debate their opponents, Talisse and

Mahoney overlook these broader concerns. The problem may be that a symmetrical interest in public debate and democratic education is rare in real-world politics. If I am correct, then most conflicts will be marked by a very one-sided interest in cultivating any debate at all, let alone debate that qualifies as deliberative. Movements that seek to change public policy and opinion will seek out public debates, while those that defend the status quo should have no comparable incentive to do so. More research is needed to ascertain whether the dynamics of the abortion conflict are particular to it, as Talisse and Mahoney seem to think, or are representative of a larger problem with serious normative consequences.

Beyond Abortion

Given the strong emotions that engulf the abortion debate, it is perhaps not surprising that Talisse and Maloney chose to focus on my characterizations of the abortion controversy rather than my broader assessments of the promise and limits of deliberation in public life. Still, I would like to draw them into a larger conversation.

In one sense, this is hard to do at this stage, given our substantive disagreements over the abortion controversy. They contend that the pro-life groups I examined have, on the whole, undermined deliberative democracy because they have resurrected an “obsolete” debate and framed conversations in a “fallacious” way, while pro-choice groups have not compromised deliberative ideals despite their refusal to create public spaces for disagreement. I disagree on all counts, for reasons that I have already articulated.

My sense, however, is that we agree that the prospects for deliberation (both in and outside of the abortion debate) are limited. I think we agree, for instance, that in the case of abortion, the best arguments get filtered into street-level debates incompletely, at best. Talisse and Maloney seem to suggest that this shortcoming is so severe that universities rather than interest groups should be the primary mediating institution that creates moral dialogue. As they put it, “The lesson may be that what is most important for the task of creating deliberative spaces for civil argument is that each side gets its view of the opposing arguments from the actual proponents of those arguments,” and they mean by this the *academic* proponents of those arguments. Professors, not ordinary citizens, would seem to be the keystone to a deliberative democracy.

No doubt the university has certain virtues as a forum for democratic deliberation. For one thing, there is not the sort of asymmetrical interest in public disagreement that is so evident in the abortion controversy. Academic careers thrive on successfully challenging some established consensus. For this reason alone, the debate over abortion in the academy has often been more vigorous than it has between political advocates. Moreover, philosophical debate in the academy has generally taken place at a high level that has helped the various parties sharpen their arguments; and respect, charity, and good will have usually been the norm.

However, one wonders how often these rarefied debates get an airing in classrooms. How often are the contours of these debates systematically shaped in ways that privilege one side? Peter Singer's *Practical Ethics* certainly enjoys a wide undergraduate readership. Do works by "conservatives" such as Patrick Lee, Francis Beckwith, and Robert P. George get the same attention? And to what extent are contrary opinions welcomed and encouraged in the context of class discussions? These questions are sincere, not rhetorical. But I do think there is cause for skepticism given the sociology of the academy, and others (esp. Hunter 1994) have been very critical of the academies' ability to mediate our moral and cultural differences. It should be noted that most college professors are not, themselves, contributors to the open-minded and productive debates that produce the texts that they may, or may not, choose to assign to their students. Moreover, everyone probably tends to teach what they consider to be good arguments, not bad ones. To do otherwise would be a disservice to their students. But there can be legitimate disagreement about which arguments are good, and therefore are worth teaching.

If such skepticism is warranted, it could be that political movements are, for all their faults, better situated to broadly disseminate academically unpopular arguments that do not enjoy the airing they should. Robert P. George, for instance, may not be assigned very often to undergraduate students. But he has spent lots of time on Focus on the Family radio broadcasts dispensing his perspective on contemporary moral issues to millions of listeners (some of whom have never been to college). This observation raises a larger point, which is that making neat distinctions between political movements and the academy is not always simple. Indeed, academics are very often political activists, too.

This marriage has often been a successful one: Peter Singer has given intellectual life and serious substance to the animal-rights movement;

Reinhold Niebuhr educated elites in the civil rights movement in a Christian realism that provided them with a larger context for understanding their civil disobedience; and Catholic intellectuals equipped lay parishioners with the secular arguments they needed to thoughtfully challenge eugenics, despite its popularity in educated, academic circles. And while academic arguments have historically enjoyed a broader hearing thanks to political movements, the moral controversy stirred up by political movements helps set academic agendas. The seminal pro-choice articles, for example, were written in the early 1970s, precisely when the abortion controversy exploded. Academic discussion and political debate often influence each other, and collectively they have often contributed to a more informed and engaged public. Thus, despite their considerable shortcomings, I would argue that both universities and political movements have an indispensable role to play in a more deliberative republic.

Postscript on Academic Deliberation

Whatever the deliberative shortcomings of public life, I have already noted that disagreement in the academy is usually marked by respect, charity, and good will. For this reason, I would like to close by noting that I was taken aback by Talisse and Maloney's essay, which was loaded with ad hominem attacks. For instance, they accused me of suffering from gross ignorance, close mindedness, and dogmatism.⁶

I would invite Talisse and Maloney to entertain the possibility that I am honestly mistaken. And even if I am in fact truly an ignorant dogmatist, I am not sure how these sorts of personal slights advance the other substantive arguments I have tried to take seriously in this reply. My hope is that Talisse and Maloney might practice some of the charity and civility that I was surprised to discover among evangelical activists. Even academics might have something to learn from them.

NOTES

1. According to Luker, abortion is not fundamentally a civil rights issue for abortion foes. As Luker (1984, 192–94, *emph. original*) explains: "While on the surface it is the embryo's fate that seems to be at stake, the abortion debate is actually about the meaning of *women's* lives." In other words, abortion is a symbolic cultural

struggle over the value and meaning of motherhood. Yet if the pro-life movement is simply a cultural crusade over the value and purpose of women's lives, the movement's behavior becomes incomprehensible. First, the most important mobilization tool in the pro-life movement is graphic images of aborted fetuses. It is difficult to explain this fact if the "embryo's fate" isn't at stake. Second, the rescue movement is especially hard to comprehend as a cultural fight. Did activists really lay down in front of moving cars and vandalize abortion equipment to oppose feminism? Did they suffer "pain compliance" at the hands of Los Angeles Police Department because motherhood had been culturally devalued?

Abortion has been the most explosive and enduring issue in the cultural wars precisely because Luker's analysis is wrong.

2. Talisse and Maloney falsely claim that I misconstrue Gutmann and Thompson's norm of reciprocity. They claim that this norm "requires not personal constraint in the face of political conflict, but constraint on the character of the reasons one proposes for policies one advocates." I agree, and said so explicitly in my essay, writing that "the norm of reciprocity requires citizens to offer grounds for their positions that are 'mutually justifiable' and accessible to everyone" (Shields 2007c, 106). This is why I went on to write that the evangelicals I observed comply with this norm because they avoid theological arguments.
3. See Groopman 2005 and *The New York Times*, 26 May 2005, "The President's Stem Cell Theology."
4. On the movement away from religious argument in the Abolitionist movement see Barnes 1964, 137–45 and Foner 1970, 43–44, 61–62. On the Temperance movement see Odegard 1928 and Zimmerman 1999. On the Catholic response to eugenics laws see Leon 2004, 383–411.
5. Perhaps Talisse and Maloney have been persuaded by Michael Sandel's very bad comparison of embryos to acorns. For a devastating response see Lee and George 2005.
6. To give just one example: They accuse me of gross "ignorance" of pro-choice philosophy because I mention Thomson's famous essay only in a footnote. I can assure them that I am very familiar with Thomson's essay: I always assign it in my "culture wars" class, and I have far more to say about it in my forthcoming book. They further insist that I "badly misrepresented" her argument. I did so, in their view, because I reported that Thomson argued that abortion was "ethical" rather than "permissible." This distinction seems like philosophical hair-splitting to me. Certainly Thomson thought that someone would be a nice, "good Samaritan" if she decided against an abortion, but that she was not ethically bound to do so. Thus, I fail to see how my characterization of Thomson's argument is sufficient ground for accusing me of gross distortion.

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