A New Front in the Abortion Wars: PreNDA Seeks Race and Sex-based Equality for the Unborn

PRI Staff / November 1, 2008

On September 23rd, 2008, two congressmen, Trent Franks from Arizona and Jeff Fortenberry from Nebraska, introduced a bill to “prohibit discrimination against the unborn on the basis of sex or race.” The event was overshadowed by debate over the proposed bailout of America’s financial sector, and so drew little press attention. But those who hold pro-life sentiments should take note of the “Susan B. Anthony Prenatal Nondiscrimination Act of 2008,” for it arguably opens a new front in the abortion wars. Like the ban on Partial Birth Abortion, it will stimulate public debate on grounds favorable to the pro-life cause. Moreover, it introduces into the pro-life arena existing U.S. jurisprudence on the elimination of discrimination on the basis of sex or race. Who would gainsay that the worst form of discrimination, bar none, is to deny unborn women or Blacks the right to life precisely on account of their innate characteristics of race or gender?

It’s Happening Here

Some may believe that sex-selective abortion is only found in countries with a strong preference for sons, such as India, China, and Korea. But sex-selective abortion is also practiced in the U.S. by immigrant populations who bring with them their prejudices against girls, preference for boys, and find here that the ready availability of both ultrasounds and abortions makes it easy for them to act on these prejudices. Moreover, although it is difficult to come by hard evidence, I have no doubt that selfish and secularized American couples sometimes use sex-selective abortion to give birth to their preferred sex, As far as race-based abortions are concerned, Planned Parenthood has located most of its clinics in minority neighborhoods, and has been more than willing to accept donations specifically targeting Black babies for elimination.
Most Americans Would Ban It

Overwhelming numbers of Americans oppose the practice of sex-selective abortion, with a 2006 Zogby/USA Today poll showing that 86% would like to see it banned. I have no doubt that a similar super-majority would support a ban of race-selective abortion.

Some pro-lifers, I am certain, will disparage this incremental approach. They say that we should only mobilize our forces for total victory, and that working for anything less undermines our larger prospects. Politics, however, is the art of the possible. We should never, when it comes to protecting the unborn, let the perfect be the enemy of the good. As Robert George has recently written in the pages of the *National Review*, “‘The goal must be to accomplish in law and policy all that can be accomplished in the prevailing circumstances, while working to move public opinion in the directions more respectful of human life so as to make possible further advances in law and policy. Indeed, it is the small victories in the political domain that help get public opinion moving in the tight direction, thus establishing the conditions for greater achievements.’”

Making Progress

In recent years the pro-life movement has passed laws, after years of legislative effort, banning particularly heinous forms of abortion. Partial birth abortion is no longer legal in the United States. Professor Hadley Arkes’ Born Alive Infant Protection Act is another magnificent example of this legislative approach. The absolute numbers of babies that will be saved is not great in either instance, but both have served to move public opinion in a pro-life direction. The debate over partial birth abortion helped to uncover the ugly reality behind such euphemisms as “the termination of pregnancy” and “choice.” The Born Alive Infant Protection Act forced abortion supporters to defend the indefensible: the killing of abortion survivors after birth in the name of “choice.”

The Next Step

Bearing all this in mind, I propose that we — the pro-life movement — adopt as our next goal the banning of sex- and race-selective abortion. By formally protecting all female fetuses from abortion on ground of their sex, we would plant in the law the
proposition that the developing child is a being whose claims on us should not depend on their sex.

Of course, this suggestion is not original with me. It was originally made by the redoubtable Hadley Arkes, who wrote in the pages of First Things in 1994 that “we seek simply to preserve the life of the child who survives the abortion. From that modest beginning, we might go on to restrict abortions after the point of “viability,” or we could ban those abortions ordered up simply because the child happens to be a female. We could move in this way, in a train of moderate steps, each one commanding a consensus in the public, and each one tending, intelligibly, to the ultimate end, which is to protect the child from its earliest moments...” Banning sex- and race-selective abortion will force supporters of abortion to publicly address a question that they will find profoundly disturbing: Is the right to abortion a license to destroy children for any and all reasons, including that of their sex or race? Most people of moderate persuasion, even those inclined to be “pro-choice,” will agree that the right of the unborn child to life should not depend on whether she (or he) possesses the requisite genitalia or skin color. Even those who believe in the absolute right to destroy the child under any and all circumstances, it is safe to predict, will be uncomfortable defending such an extreme position.

This sense of contradiction will be further heightened among radical feminists, the shock troops of the abortion movement. They may believe that the right to abortion is fundamental to women’s emancipation, but many will recoil at the thought of aborting their unborn sisters. How can they, who so oppose patriarchy and discrimination on the basis of sex, consent to ultimate form of patriarchy and discrimination, namely, the elimination of baby girls solely on account of their sex? Many, it is safe to predict, will be silent, while others will raise their voices, but with less conviction.

While the pro-aborts are stammering and stuttering, we pro-lifers will be advancing new moral and logical arguments against the exercise of the “right” to an abortion solely on the grounds of sex or race. For those who are immune to moral arguments, we can also use the examples of China and India, where sex-selective abortion is creating enormous societal problems. The debate over sex- and race-selective abortion will also help to focus the public’s attention on how unregulated the abortion industry is. In these and other ways, the debate over this legislation will not subtract from, but add to, the larger goal of reversing Roe v. Wade and, ultimately, passing a Human Life Amendment.

Politically, the timing is right for such a move. Barack Hussein Obama has broken the last
color barrier by becoming first African American to he nominated for president, while Sarah Palin is poised to shatter the glass ceiling. It is paradoxical that, at this time of great achievements, civil rights protections for women and minorities should he eroding at the very beginning of life, in the womb. Decades of progress on both fronts are now threatened to he reversed by technology that allows people to act on their deepest prejudices in secret. In any event, legislation has been introduced, and the battle has been joined. And the coming debate will be salubrious for our cause.