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BOOK REVIEWS

Abortion: The Clash of Absolutes

by Lawrence H. Tribe

(*W. W. Norton & Company, New York, 1990*), Hardbound, \$19.95. 242 pp.

One of the most influential legal scholars for America constitutional law is Laurence H. Tribe of the Harvard Law School. His book, *American Constitutional Law* (1980) is considered to be the standard textbook for constitutional law in America. Professor Tribe is widely published; appears on many news and debate television programs, and is a renowned legal lecturer sought throughout the world. So when a law professor of this eminence turns his considerable skills to any topic, but especially one as pressing as abortion, we are advised to pay close attention to his ideas.

Professor Tribe sets for himself the challenge of the abortion debate, namely, the challenge to overcome the clash of absolutes — life versus liberty. The pro-life forces have absolutized life and will allow no room for compromise. The pro-choice forces have absolutized liberty and will hear of no restrictions on the abortion liberty or sexual reproductive rights. Professor Tribe believes, and I would agree, that as long as life and liberty are enshrined as moral absolutes, no progress in the abortion debate can be made. Professor Tribe believes that we must build bridges which allow each side to enter the arguments of the other. His hope is that we can experience a kind of moral empathy, which could give rise to dialogue rather than to angry words which presently characterize the debate.

The goal of Professor Tribe is the essential challenge of the abortion debate. However, Professor Tribe does not deliver what he hopes to achieve. When all is said and done, he still refuses to grant constitutional protection to the unborn, as well as refusing to acknowledge the status of the unborn as a person. The ultimate decision remains within the total power of the woman. In fact, it is a gross injustice, says Professor Tribe, to deny an abortion to a woman who wants one. However, one must ask about the injustice done to the unborn child. Does not the taking of innocent human life raise serious moral questions which demand more of an answer than simply an appeal to "a woman's right" to decide?

In Professor Tribe's search for a compromise, one cannot help but be struck by the lack of compromise or any really new proposal for starting a fruitful dialogue. His program for compromise relies on the following: birth control education (Natural Family Planning need not apply), more effective contraceptives; the use of RU-486; and even the use of such futuristic technologies as the artificial womb. All of these would reduce the number of "tragic situations" in which abortion would be an issue. From Professor Tribe's perspective, only the most ideological and inflexible true believer would object (one has the sneaking suspicion that all this is a cover for singling out Catholics, Protestant Fundamentalists, and unliberated men). Finally, Professor Tribe goes on to propose the use of public monies to fund abortion. Again, only the most rigid and unfeeling would deny such funding to poor women. And yet, one must say that there is little in the way of compromise by Professor Tribe. He merely asserts these positions as the way of reasonable compromise. What seems to escape him is that these are the very issues which demand not assertion but respectful dialogue and sound public discourse.

It should be mentioned that Professor Tribe wants this book to address morality as well as law. I must confess I found little moral insight or compassion. The complex moral issues, both social and individual, seem to escape Professor Tribe. There is little feel for the humanity and anguish which abortion contains.

One final concern is the style in which the book is written. It seems that the book is more a collection of class notes or lectures than a sustained argument. Professor Tribe indicates that

the book was part of a seminar on constitutional law. The reader, however, is not in the seminar. The patchwork and unevenness of the book is not up to Professor Tribe's usual standards of scholarship.

To conclude, I applaud Professor Tribe for addressing the abortion issue. The debate needs this learned voice and reasoned temperament. I think he has put his pen on the current impasse — values have been absolutized and public discourse has been gridlocked. Professor Tribe's latest book is an attempt to break the gridlock and advance the public debate about this crucial issue. It can only be hoped that others will work out a better way to resolve the clash of absolutes. However, Professor Tribe has helped us all to see the issues more clearly. And in this highly charged area of debate, this is no small achievement.

—William F. Maestri
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Life and Death Decision-Making

Baruch Brody

New York and Oxford, Oxford University Press, 1988, xii+250pp

One expects a high standard of performance from Baruch Brody, and this book does not disappoint. Brody is a professor of philosophy at Rice University and professor of biomedical ethics at the Baylor College of Medicine, both in Houston. His work displays traces of each, a combination of philosophical acumen with attention to clinical detail. In his preface Brody stresses the importance of avoiding the twin shortcomings of standard clinical thinking without attention to relevant moral theory, and abstract philosophical theory without attention to practical application. Brody succeeds in bringing together a discussion of the nuances of clinical settings with the use of abstract ethical principles.

The book contains seven chapters; the first four are more theoretical, the last three more practical. Although the book has considerable merit throughout, by far the best part is the last three chapters which contain very careful discussions of real cases and exhibit the use of ethical principles for thinking about the moral responsibilities of the patient, family, and care givers.

Chapter One is entitled, "The Need for a Moral Theory" and severely criticizes the view that sound moral thinking about specific cases can get along without a general moral theory. Decent motivations, a desire to do the right thing, says Brody, are not enough, and he presents several examples to illustrate the point that our thinking must be guided by the application of relevant moral principle if our desire to do the right thing stands a hope of being translated into act.

In this chapter, Brody first mentions his preferred moral theory, which he calls the "Model of Conflicting Moral Appeals." According to Brody, there are a number of different morally important principles that we ought to use in deciding how to act. Brody views these principles as independent of one another, in that the cogency of any one of them cannot be reduced to or founded on the cogency of any of the others. Brody thinks that someday we may be able to develop a unified theory that will systematize these independent and sometimes discordant principles, but he believes that we now are far from possessing one. In its absence, our best option is to hold that the morally right decision is the decision that most completely respects whatever moral appeals are relevant to the case at hand.

Chapter Two is important, for in it Brody lists and discusses the five different kinds of moral appeal that form the bedrock of his system. These are the appeals to (1) **consequences**