

■ **REVIEWS** | Issue: "Babies are back" January 29, 2011

Q&A

A life for life

With a career spent fighting abortion, attorney Clarke Forsythe says a prudent approach to the issue is beginning to pay dividends | *Warren Cole Smith*

For a quarter-century Clarke Forsythe has been a key attorney at Americans United for Life, a public interest law firm that is also a pro-life public policy organization. He has been vice president and general counsel, overseeing AUL's nationwide litigation and legislations strategy, and has also directed AUL's Project in Law & Bioethics. He has argued cases before federal and state courts, testified before Congress and state legislatures, and written *Politics for the Greatest Good: The Case for Prudence in the Public Square* (IVP). Here are edited excerpts of his remarks before a student audience.

When did you start thinking about abortion? I didn't give much thought to it until the 1980 election when it was Carter vs. Reagan vs. Anderson. I was working for John Anderson and someone said to me, "Anderson is pro-abortion." I said, "I'm a guy, what does that have to do with me?"—but he provoked me to look into the issue. I read C. Everett Koop and Francis Schaeffer's book, *Whatever Happened to the Human Race?* and that book provoked me to rethink my views on abortion, Christian philosophy, and politics. In the fall of 1980 I went off to law school at Valparaiso, read *Roe v. Wade*, and learned about Americans United for Life and its summer program for law students.

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KAREN FORSYTHE FOR WORLD

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When did you decide that abortion was a defining issue for you, something to which you wanted to devote much of your life? Twenty-five years ago I was faced with two job offers, one to work with AUL and another to go into private practice with an insurance defense firm. My pastor was preaching on the sanctity of life that Sunday. I could have made a lot more money with the insurance defense firm, but it became clear to me that my passion was the sanctity of human life. I feel very blessed over 25 years to have combined my vocation with my avocation. I have lawyer friends in Chicago who graduated from law school about the same time I did and are in private practice—and they would like to retire tomorrow. They see their work as unfulfilling, and I could have been there, but the work at AUL is still exciting. It spurs me on to continue.

The *Roe v. Wade* decision, now 37 years old, does not seem to be aging gracefully. *Roe v. Wade* was badly written, badly deliberated, badly decided. An embarrassment to the Court, it remains a significant symbol of judicial activism. Our constitutional system leaves most of these questions to be decided by the legislature, not the judicial system. Abortion is not in the Constitution.

Is America becoming more pro-life? We've made significant progress. If you go back to 1996, the Gallup Poll percentages were 56 percent pro-choice and 33 percent pro-life. Now, a majority are pro-life. Look at the fetal homicide laws. Look at the schizophrenia between *Roe v. Wade*, which is judicially declared abortion-on-demand, and what the issue is to the people in the states that passed these laws. We want to heighten the schizophrenia, because the more people hear these cases of juries convicting drunk drivers for fetal homicide, they say, well how can this be? How can we have abortion on demand and laws against fetal homicide?

Those laws are now common. In 37 states fetal homicide laws now treat the unborn child as a human being; a drunk driver can be convicted of a homicide for the killing of that unborn child, in addition to perhaps the homicide of the mother. In 25 of those states the unborn child is considered a human being from conception. Those laws did not exist before *Roe v. Wade*.

Are we also learning more about the risks of abortion to women? Medical data that didn't exist in 1973, didn't even exist 15 years ago, are now being examined in European medical journals and in some American journals. There's a heightened risk of preterm birth after abortion, a heightened risk of drug and alcohol abuse, and a heightened incidence of suicide and psychiatric admission. There's also a loss of the protective effect of a first full-term pregnancy against breast cancer, and a heightened risk of violent assault and death after abortion.

But doesn't the embrace of individual autonomy make it harder to gain support for pro-life views? *Roe v. Wade* enunciated a notion of moral autonomy. Certainly many extreme pro-abortion advocates come from a position of absolute moral autonomy. But if you look at

American public opinion, American public opinion does not share that. Most Americans only support abortion for the hard cases, and only early in pregnancy. Most Americans don't support abortion for sheer social reasons like education, career, "can't support a baby right now." If I'm talking to a group of law students or faculty, maybe a lot of them come from a position of sheer, individual moral autonomy. But if I'm talking to the public, I don't think I have to refute that position philosophically because most Americans don't share it.

In this ideological climate, how should pro-life people proceed? In your book *Politics for the Greatest Good* you emphasize the importance of prudence. The idea of prudence—practical wisdom—goes all the way back to the Greeks. Prudence was revered as one the cardinal virtues across five civilizations: Greek, Stoic, Jewish, Christian, Roman. We have reduced it to certain clichés—getting what you can, pragmatism—but prudence has four elements: discernment about what is the good, deliberation about what kind of decision we should make, the decision itself, and executing the decision we make.

You write about the prudence of William Wilberforce and how long the British anti-slavery process took. The movie *Amazing Grace* looks at the first 20 years of Wilberforce's anti-slavery campaign that ended with Parliament's bill to end the slave trade. The movie doesn't look at the next 25 years after 1807, in which Wilberforce focused on prohibiting slavery throughout the entire British empire. Parliament finally acted on that and Wilberforce died three days later—and the next 25 years were spent enforcing the law passed in 1833. He combined a moral vision with practical steps to enforce that vision.

A purist in 1807 might have said that we must eliminate slavery totally and completely. Prudence points us to the position that when we cannot achieve the highest good, it is both moral and acceptable to seek the greatest good possible. Prudence says we should be accepting an all-or-something approach rather than an all-or-nothing approach. When you strike for the moral perfect, you often come up with nothing, because like it or not, we live in a democracy and public opinion matters.

Is prudence related to our living in a fallen world? Yes, so we need an acute understanding of what is possible, how we should harness means to achieve ends, and when the ideal cannot be achieved, how we preserve the possibility of future progress (instead of striking some kind of compromise that prevents future progress). We have to go through that disciplined thinking when we pursue political goals.

Is the prudential approach saving any lives? The abortion high point in 1992 was 1.6 million, and we've reduced it 25 percent to 1.2 million. Parental notice and consent laws, reducing federal funding, etc., have helped.

Listen to Warren Cole Smith's complete interview with Clarke Forsythe.

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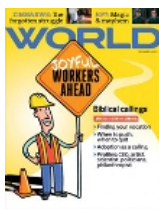
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