

# BOISI CENTER INTERVIEWS



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**ROBERT GEORGE** is the McCormick Professor of Jurisprudence and the director of the James Madison Program in American Ideals and Institutions at Princeton University. He spoke with Boisi Center associate director **Erik Owens** before delivering the Boisi Center's 9th Annual Prophetic Voices Lecture on natural law, God, and human dignity.

**OWENS:** Could you say a few words about natural law: what it is and how it underlies our understanding of what you call “basic human goods”?

**GEORGE:** Natural law is the body of practical principles, including moral principles, that provide our reasons for action and restraint. Many of our reasons are instrumental. Many of our goals are things we want not for their own sakes, but as a means to further or deeper other goals. What a natural law theory proposes to do is to give as complete an account as possible, not only of those instrumental reasons that are provided by merely instrumental goods, but also of intrinsic goods, and therefore, reasons for action that have their intelligibility as reasons and as ends in themselves.

Let's take a couple of examples. One is friendship. A purely instrumental friendship wouldn't be a friendship at all. If you and I purported to be friends, but we were merely using each other, perhaps without any ill will, our relationship would be just business. In the end, we find that by cooperating we can each more efficiently pursue our individual goals, but we would not be realizing the more efficient achievement of our goals. We wouldn't be fulfilling our nature in respect of our capacity for true friendship and for sociability.

When friends care about each other not simply as means for more efficiently achieving our instrumental goals, but for the sake of each other—that is a true friendship. They perform acts that are motivated not by anything beyond the



friendship itself. That's an intrinsic good, not merely an instrumental good.

If someone performs an act of friendship, we, even as observers from the outside, can understand the point of that activity just for its own sake. We're not left baffled by the fact that someone is performing a friendly act just for the sake of friendship and not as a means to something else, the way we would be

baffled to find a person simply standing on one leg, opening and closing a closet door for hours and hours for no reason, no instrumental goal—just for its own sake. That would not be intelligible for us. That would be baffling. Friendship is not baffling.

The same is true for the pursuit of intellectual knowledge, in any field, whether we're talking about the natural sciences or the humanities, social sciences, or mathematics. If someone is pursuing an understanding of Shakespeare, not for some instrumental reason, such as the ability to show off his knowledge of Shakespeare at a cocktail party or as a job as a professor of Shakespeare, but just for the sake of improving his mind and understanding this great human achievement, we're not baffled by that.

This is because, like friendship, the pursuit of knowledge and of understanding in the deep and serious sense, provides a reason for action whose intelligibility, doesn't depend on any further, deeper, ulterior motive.

Natural law is interested in understanding not only our instrumental reasons for action and the goods that provide those instrumental reasons, but also our more than merely instrumental reasons for action, and the intrinsic goods that provide those.

If there are such things as more than merely instrumental reasons, if there really are intrinsic goods, or what one might call basic human goods, then they are aspects of our well being and fulfillment as human persons. They're the fulfillment of capacities in respect of which we can flourish, or if things go badly, fail to flourish.

With respect to friendship, we can be friendless, lonely, perhaps as a result bitter and alienated. That's not very healthy, and we're certainly not flourishing in respect of our capacity for sociability. But if we have true friends, and if we are a true friend to our friend, living a life in which we have rich and meaningful relationships that are more than merely instrumental, then we will be flourishing in respect of this very important dimension of human life.

The same is true with intellectual knowledge. We can be muddleheaded, inattentive, dull witted, kind of stupid, failing to flourish in respect of our capacity for understanding, or we can be intelligent, attentive, on the ball, and flourishing in respect of our knowledge.

We can take steps and choose, beginning with our grasp of the intelligible point of being understanding, intelligent, quick on our feet, able, on the base of our understanding of the intrinsic good of knowledge as an irreducible dimension of human well being and fulfillment. We can take ourselves from a situation in which we are not flourishing, or not flourishing as much as we could possibly flourish, to an improved situation we've chosen for the sake of the good of knowledge, for the sake of the good of friendship, and to improve ourselves in that respect.

The same is true of health. We're biological creatures, which means that there's another dimension of our flourishing: our possible decline. We can flourish or fail to flourish in respect of good health. We can take steps such as going to the doctor if we're sick, exercise, eat the right

kinds of foods, avoiding eating the wrong kinds of foods, stop smoking, don't start smoking—all these things for the sake of the good of health because health is a respect in which, as an organism, you or I can flourish or fail to flourish.

Now, you'll see that I've already committed myself to the view that the human good is variegated. There's not just one human good. I reject monism, the idea that there's a single human good. There are many dimensions in which we can

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flourish or decline. Human nature is complex. We can be flourishing in one, but failing to flourish in another.

The diverse or variegated nature of the human good means that very often we're going to have to make choices. It's because we have to make choices that moral questions arise at all. So, natural law theory proposes a way of guiding our choices.

The proposal of the natural law theorist is that in circumstances of morally significant choosing, one ought to choose

options, and only those options, that are compatible with the will toward integral human fulfillment. That is, the human good in all of its richness and diversity conceived integrally as a whole. We can be more or less virtuous. There are all these many dimensions.

Thus, this is proposed as an alternative to the competing view, such as, utilitarianism, or more broadly, consequentialism, which has a proposal of its own in situations of morally significant choice. The utilitarian, for example, chooses that option which overall and in the long run promises to produce the net best proportionate benefit to harm. That's a very different proposal about what principles should guide our ethical judgments.

I have a critique of that utilitarian or consequentialist proposal because it seems to me, implausibly, to assume that the principles of our action that guide us to choose what is intelligibly choice-worthy.

I think that's incoherent and unworkable because there is no such thing. It assumes that the human good is one substance that just manifests itself in different ways, as opposed to what I think is true, which is that the human good is truly variegated. Different human goods, or different instantiations of the same category of good by different persons and different circumstances, or by the same person in different circumstances, are not reducible to anything else. They're not reducible to each other, and they're not reducible to some common factor of goodness, common substance that they all have, just manifest differently.

This is a big debate. Now, both sides, the natural law theorists and the consequentialists, agree that our moral judgments are connected in a very fundamental way to a proper understanding of human well being and flourishing—that ethics has an intelligible point because it's about the well being, the flourishing, and the fulfillment of human beings. But they have radically different views about the nature of the good. Is it truly variegated or not?

If not, then it perhaps can be commensurable in the way that utilitarians must suppose for the principle to work.

As a result of that, they have two different fundamental moral principles. I'll conclude just by saying that if you come down, as I do, believing that human good is fundamentally variegated, and that the master principle of ethics should therefore be to choose in ways that are compatible with human well being and fulfillment integrally conceived, then the specifications of that master moral principle will be the familiar and moral principles that most of us try to live by and teach our children, "Do unto others as you would have them do unto you," the Golden Rule. Don't do evil even if good might come of it, the so-called Pauline Principle. Or Kant's maxim, as he formulates the Categorical Imperative in one of its forms, treat humanity, whether in the person of yourself or another, always as an end and never as a means only.

Those are specifications of what it means to choose with a will that's in line with a will toward integral human fulfillment. From those moral principles like the Golden Rule and the Pauline Principle and Kant's Categorical Imperative, we can derive more fully specific moral norms when we think about the concrete choices we might face. That's where we get our "Thou shalt not kill, or steal, or commit adultery, or bear false witness," and so forth and so on.

**OWENS:** So just one clarification question: Is it the singularity of the Pleasure Principle and utilitarianism that you're contrasting with the variegated nature of the human good, and the approach you're bringing?

**GEORGE:** My critique of consequentialism is broader than that because consequentialism is broader than utilitarianism. Utilitarianism is a form of consequentialism, but there are other forms.



I think that the problem with consequentialism is not just hedonism as an understanding of value or human well being. Even though those consequentialist theories that are not hedonistic, or hedonic, in their understanding of value, they are defective. They necessarily assume that we unequivocally predicate goodness of different things, like friendship, knowledge, aesthetic appreciation, skillful performance, virtue itself, and so forth. They all have the same thing in them, but they manifest it differently. They are one substance, manifested differently.

I think that we predicate goodness of different things only analogically. They're not the same substance manifested differently—they are different things, different substances.

If I'm right about that, and the good is predicated analogically of the different activities that give us more than merely instrumental reasons for action, in what sense are they all properly referred to as goods? Well, in this sense that each of them is capable of providing a reason for action, whose intelligibility is a reason that depends on no further or deeper reason or motive to which they are a mere means. Each is capable of providing an ultimately non-baffling answer to the question, "Why would somebody do that?"

Why would someone go to visit a dying friend in the hospital if the friend is unlikely even to be able to be aware that they are there? That doesn't baffle us. We can understand friendship. Why would somebody stand on one foot for six hours and open and close a closet door? That would be baffling.

So a basic human good and an intrinsic good is just any activity that is intelligible to us, not as a means to something else, but as an end in itself.

**OWENS:** How would you describe the relationship between basic human goods and the concept of human rights?

**GEORGE:** Human rights are moral principles. They are principles that are meant to guide action in respect of morally significant choices by giving us a conclusive reason to do or not do something that we might otherwise have perfectly good reason to do or not do.

There are lots of things that it would be intelligible to do that I shouldn't do because they would be a violation of somebody's rights. Let's say I have a five year old daughter and she is afflicted with a terrible liver disease. She is going to die unless we get her a liver transplant and needs a donor who will provide a liver that matches.

None are available, but I happen to learn that there's a little girl across town who's a good genetic match for my daughter, so I contemplate whether I should hire a hit man to kill the little girl, take the liver, and then retain a corrupt surgeon to transplant the liver in my daughter.

Would that be an intelligible thing to do? Would it be understandable? Could you make sense of my doing it? Absolutely. There's a point to it, which is to save my little girl's life. We can all understand that.

Should I do it? No. It would be wrong. Why would it be wrong? It would be a violation of the rights of the other little girl who would be killed. It would violate her fundamental right to life, one that she possesses by virtue of her equal dignity. My daughter is of infinite value, but she's not of greater value than somebody else's daughter or any other little girl.

So while we might even be able to understand someone doing such an evil thing, we can't approve of it, from a moral point of view, because it's a violation of rights.

Now, do we have to talk in terms of rights? No. The language of rights is a useful, supple way of conceiving and expressing the moral principle that guides our action conclusively away from doing something like taking that little girl's liver. But we can put it in other terms just as well.

Some people, especially some Christians, think that to deploy the language of rights at all is so dangerous that we ought not to do it in a moral analysis. It implies a kind of selfishness, or tempts us in the direction of a kind of selfish way of looking at ethics in an erratic, individualistic way.

Now, I recognize that there are risks in using the language of rights, and there are things we need to be aware of. There's been an inflation in rights language and a tendency to try to solve all problems in terms of rights talk, to the neglect of other sorts of principles that can't be

usefully or very conveniently expressed in terms of rights. Mary Ann's wonderful Book, *Rights Talk*, gives you a very good account of these dangers.

But like Mary Ann, I think it's possible for us to be cognizant of those dangers and to avoid them, so as to make good use of the language of rights, including the very important language of human rights. But it isn't necessary. I can translate everything that we talk about from

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a moral point of view in terms of rights into a language that doesn't use the concept of rights, and just the straightforward language of justice will say the same thing, just in a different language.

**OWENS:** Two more politically oriented questions. First, I'm curious to hear your thoughts about President Obama's Executive Order regarding conscience clauses and the exemptions with regard to the healthcare. Was that satisfactory in any way, in your opinion, to protect the

rights of the unborn in the process of the healthcare reform?

**GEORGE:** I wish I could say yes, that it's helpful and meaningful as providing protection for the unborn. I strongly support Hyde Amendment principles. I think abortion is the great stain on our national conscience. I suspect the day will come, probably sooner rather than later, when we'll understand that, and look back on this period of a million-plus abortions a year with horror.

I don't believe in the inevitability of truth winning out. But while we work against that injustice more generally, I think it's very important for us to retain that protection for all of us against having our tax dollars used to promote abortions. The number of abortions foretold not just by the pro-life side, but by the pro-choice side, would be increased very significantly by repeal of Hyde Amendment principles, or abandonment of Hyde Amendment principles.

So I think it's terribly important that Hyde Amendment principles remain in place, and to the extent that the government further involves itself in the provision of healthcare and health insurance, I think it's very important for those principles to be explicit and strong in the law, and here's where we run into a problem.

The supporters of the healthcare program that President Obama and Speaker Pelosi have now successfully enacted, by and large, do not like the Hyde Amendment. They believe in publicly funded abortion. They were unwilling to put Hyde Amendment principles into the legislation, where it would, without any doubt, have provided strong protection. It's what Congressman Stupak originally wanted, but settled for a deal in which he didn't get that, yet he got an Executive Order.

Executive Orders have their place. Sometimes they can be meaningful and important. The debate over whether there should be an Executive Order banning



federal funding of embryo destructive research was a real debate about a real issue. President Bush came down one way, President Obama now has come down the other way, and a lot hinges on that. A lot of human embryos are going to be killed now as a result of President Obama's Executive Order overturning President Bush's Executive Order.

But the circumstances of the healthcare bill are such that the Executive Order is likely to have very little effect at providing protection against the funding, especially the indirect funding of abortion under the new system.

I'm sorry that Bart Stupak was willing to settle for that, and all the major pro-life groups recognized this. From the pro-life Office of the US Conference of Catholic Bishops to Americans United for Life to the National Right to Life Committee, all agree that these protections are ephemeral, and to some extent illusory in the Executive Order because it lacks teeth, and will not be interpreted by the courts as countermanding the terms of the actual legislation.

But you don't have to just take that from me and from the pro-life folks. You can take it from the pro-choice folks as well. They were willing to accept the Executive Order ungrudgingly because they

realized that it would not provide effective protection against abortion subsidization.

The left-wing filmmaker Michael Moore proclaimed a great victory over Stupak when Stupak capitulated. Whatever one says about Moore, and he's far from my favorite person, and I certainly radically disagree with him about abortion and its public funding, but whatever one says about him, he's no fool. He understands that this was in fact a great victory for the pro-choice side and for the forces of subsidization of abortion.

The same is true with a number of leading pro-choice voices and people in pro-choice organizations. They don't like the rhetoric of the Executive Order, but they can happily live with it because they know they received the substance of what they wanted, which was essentially a toothless bit of rhetoric against abortion funding without really firm guarantees that are going to be judicially enforceable against abortion funding.

I'm very, very disappointed in the failure to include Hyde Amendment protection in the actual legislation.

**OWENS:** There's obviously a lot more we could talk about on that front, but let me ask one last question about the *Manhattan Declaration* which you helped

to write. Could you say a word about the motivation behind the document and its impact in the past couple months since you released it?

**GEORGE:** Yes, it was released in November but was originally conceived in September at a meeting at the Metropolitan Club in Manhattan of the Catholic bishops, Evangelical Protestant leaders, Eastern Orthodox bishops, and a few others.

The *Manhattan Declaration* has now been signed by about 430,000 of our fellow citizens. It is a declaration from a particular religious point of view, mainly Catholics, Evangelical Protestants, and Eastern Orthodox Christians.

Unlike most of the things I do, both philosophically and politically, which are non-sectarian, this for me is a relatively rare foray into a public statement that is from faith.

It identifies three principles as foundational principles of justice, unaided reason, a point we make in the *Manhattan Declaration*, but strongly endorsed by the great tradition that is shared by Catholics, Eastern Orthodox and Evangelical Protestants. These three principles are the sanctity of human life in all stages and all conditions, the dignity of marriage as the conjugal union of husband and wife, and the principle of religious freedom and freedom of conscience.

The *Manhattan Declaration* was motivated by the perception that all three of these had been under threat and will increasingly come under threat in our culture and in our polity. In the case of abortion, it's obvious. Since the late 1960s, and especially since 1973 with the Supreme Court's tragic decision in *Roe v. Wade*, unborn children have been deprived of virtually all of their fundamental rights to protection against unjust killing.

Marriage is now not only in severe disrepair in our culture, but the collapse of the marriage culture and the understanding

of marriage that had been in place. This shift has led to demands, widely honored in the elite sector of the culture, for marriage itself to be redefined, from my point of view, not only altering who can enter into something that's called a marriage, but altering the very meaning of marriage itself and its public and social significance.

The threats to religious liberty are less evident but just as grave, and they really have to do with the other two threats, fundamentally. On the life issues, the legalization of abortion, and demands for the public funding of abortion, and the acceptance of the practice of abortion in American medicine. Hippocratic medicine, of course, had rejected abortion from the time of Hippocrates, if not earlier. But the acceptance of abortion has meant that healthcare workers are often and increasingly under pressure to participate in abortions, perform abortions, refer for abortions, dispense abortifacient drugs or other pharmaceutical products, and so forth.

This is just contrary to the conscience of anybody who understands and holds the sanctity of the human life principal, including Christians. From a Christian point of view, it was necessary, in our judgment, to declare that we simply will not cooperate with any law that imposes on any of us an obligation to participate in the destruction of innocent human life. We will give up our jobs if necessary, we will pay fines if necessary. We simply will not comply with a law that's contrary to what we can conscientiously do.

Again, from a Christian point of view, there have been martyrs throughout Christian history, to this very day, who have been willing to give up a lot more than a job, or suffer a lot more than a monetary fine or even a short prison term, in order to live in line with a Christian conscience. This pledge might sound dramatic, but in Christian historical terms, it's not as if we're big heroes, or even proposing to be big heroes.

We see the same thing in the marriage area, the same kind of pressure against liberty. Here in Massachusetts, Catholic Charities had to make a choice about whether to stay in business and place families in same-sex homes, which headed by sexually active same-sex couples, in defiance of the Catholic understanding of sexual morality and marriage after

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Massachusetts adopted a sexual orientation civil rights bill, or go out of business. It did the right thing: it went out of business. You can't violate conscience, even to pursue very important, valuable goals like placing children in good homes.

In my home state of New Jersey, the Methodist Church lost its tax-exemption status on a piece of shore property where it had a facility that the Church permitted for use by people of faith and people of no faith for weddings, so long as the marriages were marriages that were understood to be marriages in conformity with the moral laws understood by the Methodist Church. When the Methodist

Church, as a matter of Christian conscience, declined for the facility to be used for same-sex ceremonies, its tax-exemption status was jerked.

**OWENS:** When was that?

**GEORGE:** That was 2009. It's still in litigation, as I understand it. Out in New Mexico, an evangelical Christian woman who is a wedding photographer was asked to take photographs at a same-sex blessing ceremony. She felt that she could not, as a matter of conscience, participate in something like that. She politely declined. She was fined several hundred dollars because as the non-discrimination law was interpreted, she had no right to liberty of conscience that would protect her against being forced to participate as a photographer in a ceremony like that.

These pressures on religious liberty are very real, even though they're not as evident as the abortion license or the demand for the redefinition of marriage. We Christians who have signed the *Manhattan Declaration* have pledged ourselves to stand for conscience, for religious liberty, and to abide by conscience, no matter what the consequences.

The Declaration concludes with a statement that sums the matter up very simply. We believe in law and we believe in the role of law. We don't take the law of disobeying the law or refusing to comply with the law lightly. We agree completely with Martin Luther King who stressed the importance of law. But also, like King, we understand that there are limits to what the law can legitimately impose, and at a certain point, if the conflict is between law and conscience, conscience wins, at least from a Christian point of view.

The concluding sentence in the *Manhattan Declaration* states, “We ungrudgingly render unto Caesar what is Caesar's, but under no circumstances will we render unto Caesar what is God's.”

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