

THE “DOE EFFECT”

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The sociologist, Mark G. Field, published in 1956 an overview of the now-forgotten history of abortion in the former Soviet Union entitled “The Re-legalization of Abortion in Soviet Russia,” which had quietly taken place a year earlier (*The New England Journal of Medicine*, 255:417-421). Russia had first legalized abortion in 1920, and for 16 years led the world in advancing medical techniques to improve the safety and efficiency of abortions performed in what were called *abortaria*. The St. Louis physician, Frederick Joseph Taussig, following his trip to Russia to review the quality of its obstetrical and gynecological care, made the most thorough depiction of these precursors to modern abortion clinics. Taussig was appalled by what he observed. In his several accounts, which first appeared in the pages of *The American Journal of Obstetrics and Gynecology* in the early 1930s, Taussig criticized the use of abortion as a form of birth control. As the leading physician-writer of his era on the abortion problem, he urged all who were concerned about the practice of abortion to support laws that would allow the medical profession to determine when it was in the best medical interest of the patient.

The former Soviet Union outlawed most abortions in 1936. The motives attributed to the change ranged from Joseph Stalin’s alleged insistence that the birthrate had to be increased in order to strengthen the military (although, according to some observers, that rate had not declined during the 16-year “experiment”) to Henry E. Sigerist’s defense of the change as a result of improved social welfare for mothers and infants. Sigerist, a highly regarded medical historian from Johns Hopkins University, concluded in *Socialized Medicine in the Soviet Union* that “Legalized abortion was an experiment of great interest, not only to the Soviet Union but to the rest of the world. One result, however, is already clear: repeated abortion is harmful to the mother’s health, and hence should be forbidden in any society that is able to (1) guarantee a job to all its members, men and women; (2) provide medical and social institutions to care for mother and child free of charge; (3) give adequate financial aid to large families; and (4) give contraceptive advice to all who seek it. If a society is unable to realize such conditions, it had better control abortion by legalizing it” (1937:253).

The utopian conditions set out by Sigerist are not only the ambitions of welfare states; they implicate these states in an old-fashioned rivalry between individual intentions and their social control. This may be why the evolution of the abortion issue in advanced-industrial societies has reached its denouement in the protracted debates about the rights of both the pregnant woman and her unborn child. In the older architecture of social progress, the stand *against* abortion was progressive, insofar as welfare provisions improved. In revisionist histories of the Progressive Era, such improvements are nevertheless regarded as infringements on personal liberty. Libertarians and contemporary liberals see eye-to-eye on abortion, relegating the unborn to dependence defined by the host. This form of dependence does not preclude arguments that advocate the use of state-funded resources for both the termination of pregnancies and the support of maternal welfare in general. The libertarian might object to this support, but not to the right to exercise choice. The liberal follows Sigerist in his four principles of social support, but, unlike the progressive, no longer claims jurisdiction over the choice made, in effect, defining as private a choice that deserves social support for whatever reason the choice is made.

The End of Social Problems

This radical privatization of choice is the “Doe effect”, which refers to *Doe v. Bolton*, the companion case to *Roe v. Wade*, handed down by the United States Supreme Court at the same time on January 22, 1973. In this case, the justices determined two important aspects of the new abortion “regime,” as some have called it. First, they required that abortions had to be performed by licensed physicians, thus giving to the medical profession the exclusive responsibility for providing this service to any woman requesting it. The consequence of this particular aspect of the decision assured that abortion services would be concentrated in large urban centers, just as in the case of the former Soviet Union, and that the abortion clinic, much like its Soviet predecessor, would become its major provider. Second, the court struck down all existing arrangements that had been established by hospitals providing abortions prior to 1973, in order to act within the laws of their respective state

jurisdictions. These arrangements included what were then known as “therapeutic abortion committees,” largely unheard of by the general public at the time but essential to the medical management of abortion services in many states.

The composition of the therapeutic abortion committee was determined by the hospital on whose premises an abortion was performed. In *Doe v. Bolton*, the case arose as a challenge to a Georgia therapeutic abortion committee that consisted not only of physicians and hospital administrators, but also a local sheriff. It was the arbitrary nature of these committees’ composition that led the court to strike down all such arrangements, and that assured continuity between the solitary patient and the solitary practitioner, leaving to each the choice of whether or not to obtain or perform an abortion. Of course, even with this new arrangement, the asymmetry of choice is painfully obvious: although no woman can be compelled to obtain an abortion, no physician can be compelled to perform one. The “Doe effect” is that process by which previous efforts at collective determination of “community” standards are dismantled legally, and replaced, as in the case of abortion and other medical procedures, with new standards of so-called “informed consent.” In other words, consent of the governed is replaced by individuals consenting to be governed by whatever rules are imposed by those seeking indemnification from the unintended consequences of their actions.

The significance of this asymmetry in the logic of choice that underlies a request, and the willingness or refusal to fulfill it, should not go unexamined. The “Doe effect” is the radical isolating of choice in circumstances where “choice” cannot be conducted without the assistance of others. For more than 30 years, the “Doe effect” has strengthened the illusion that individual choice can be accomplished individually. At the same time, the choice *not* to do something is no longer regarded as a choice at all, but rather as evidence of some form of financial or environmental constraint on individual choice. Henry Sigerist, at least, believed in the possibility of solutions to social problems, something that inspired hopefulness about a more elaborately involved welfare state in the lives of its citizens. This was not considered, at first, as an assault on the American piety of individualism as much as an endeavor to lift those in poverty out of that condition. But the solution became a problem, as dependence increased on the system that was charged with solving the problem. In this respect, the Welfare Reform Act, signed by former President William Clinton, ended any pretense that the federal government knew best how to manage these problems.

The view that abortion might be considered a social problem worth addressing (i.e., reducing) came directly

in conflict with the Supreme Court’s redefining of abortion as principally a matter of rights. In *Roe v. Wade*, choice became inextricably linked to privacy, and in *Doe v. Bolton*, the reliance of physicians on others to protect them legally in their decisions to perform abortions was deemed no longer necessary. Together, these changes set off the firestorms known as culture wars, through which any effort at balancing a variety of conflicting interests was intellectualized out of the social fabric entirely. Perfectly abstruse philosophical ruminations were penned about obligations, rights, duties, and the like in a vacuum of public debate that allowed room only for confrontation and rancor. The “Doe effect” produced a widespread cultural indifference toward the aggregate consequences of certain choices made over time. It succeeded in creating a great deal of academic work in the worst sense, a kind of other-worldly scholasticism that, by and large, reinforced convictions on either side, with little or no intervention proposed in solving a “problem” that was now seen as irreconcilable, as long as rights were at the center of the dispute.

The key, I believe, to understanding the long-term, unintended consequences of what has been called, amazingly, “abortion freedom” is that the practice once thought to be dictated by economic necessity was transformed by the 1970s into a fundamental way of thinking about individual identity that was no longer defined by where one was born and who one’s parents were, but by one’s right to make choices about who one would be and what one would do. Community standards represented the last gasp of secular acknowledgment of interests greater than the individual. “Parental consent” was born in this transformation, and its arrival was celebrated always as a release from such standards, with the most horrific examples (e.g., incest) staged for maximum effect on public sensibilities. While such standards could easily endure in cases where health and safety were concerned, in other cases where they were not concerned, the elimination of all efforts to call individuals to account about their behavior proceeded apace. Today such callings to account are designated as religious, while at the same time the naked public square is filled with myriad warnings about what might make you sick or kill you, but hardly a whisper, about morality in the older sense, before it became indistinguishable from health. It is true that “spirituality” has obtained a new lease on life in an age of health consciousness, but it is neither the Trojan horse some suggest it is, nor the saving remnant of a religiously based morality.

What Social Science Missed

James Taranto speculates that the “Roe effect” may help account for a gradual realignment of American

political life. We might expect that social scientists would be the first to be interested in what are obviously multiple causes in this realignment. But this is not the case, and their lack of recognition is also the result of the “Doe effect”. For nearly 30 years, the social-scientific pieties that have firmly anchored themselves in the editorial and news pages of the major American dailies, have, with few exceptions, celebrated the freedom of choice, as it pertains not only to abortion, but also to divorce and sexuality, with little consideration of the long-term consequences of a systemic indifference to what such choices may produce for those directly affected by them, and for the country itself. Taranto represents something of a harbinger of things to come for modern social science, namely, a journalistic intuition and sensibility that leads social scientists to examine their assumptions, thus reversing Robert Merton’s observation about “obliteration by incorporation,” which described the trickling down from the glacial peaks of social-scientific research of specialized findings that would become part of accepted knowledge, losing all specific connections to their creators.

What if, on occasion, the opposite is the case, namely that the more ideologically secure the professoriate and its allied government experts have become, the less they really know about what is actually happening in the world, and are poor at predicting what will happen, in any case? This is the “Doe effect” in its most conspicuous, ideological guise – a testament to the systemic indifference that belief in unencumbered choice breeds. In this guise, the defense of abortion or divorce relieves many from any responsibility to acknowledge trends or probabilities. One way to understand this abrogation of responsibility is in the larger realm of academic debate over so-called “advocacy” teaching. When, for example, the discipline of sociology came out of its “functionalist” slumber of the post-war period, those resolved to see the world in terms of conflict were not also necessarily advocates of conflict, anymore than those with whom they disagreed about how to make sense of social change were advocates of the status quo.

The Social Problem of Higher Education

The once simple expectation of mutual respect that allowed disagreements to be about ideas rather than political motives, was overwhelmed by various expressions of contempt that relegated all but the most strident to private conversations in private circles subsidized generation after generation by parents who accept higher education as a necessary choice against even harder schools of hard knocks. Among the strident, on all sides, the “Doe effect” has sustained the illusion that the principal function of higher education is either to

direct students in their choices, or to prevent them from making certain choices, all, this depending upon from which side of the culture war one comes. Youth are forever impressionable, if not entirely reliable, in raging against the machines of domination, however they are defined. They yearn for guidance, and instead receive counseling of all sorts. In a book that opens the possibilities for more systematic investigations by social scientists, *God on the Quad: How Religious Colleges and the Missionary Generation Are Changing America*, Naomi Schaefer Riley provides extensive anecdotal evidence that America’s religious colleges are achieving the kinds of guidance that are not likely to arise in abundance very soon in so-called elite (i.e., wealthier) institutions. But winds of change in elite colleges and universities may be blowing more strongly than anyone recognizes, least of all social scientists.

Tom Wolfe’s recent novel, *I am Charlotte Simmons*, offers confirmation that what began in 1987 with Allan Bloom’s *The Closing of the American Mind* (whose subtitle, by the way, should also be recalled: *How Higher Education Has Failed Democracy and Impoverished the Souls of Today’s Students*), has ended two decades later with reports from the trenches about how far the baby-boom teachers have withdrawn from any notion of responsibility for the souls of their students. Nurturing, if not saving, souls, after all, is too close to what used to be called the task of pastoral counseling, which itself has undergone dramatic transformation in a therapeutic age.

The elite reviewers’ responses to Wolfe’s novel universally panned it as containing too much in the way of caricature. In the words of *New York Times* reviewer Michiko Kakutani, it “feels as if its author were merely going through the motions instead of really trying to capture the raucous carnival of American life.” Celia McGee of the *New York Daily News* concludes that Wolfe’s approach to writing “should put *I Am Charlotte Simmons* right at the top of any Red State reading list.” Others have concluded that the book has a social or political agenda. What is stunning about all these observations is how profoundly ignorant they are, not about what they imagine college life to be, but what readers other than themselves might take away from such an account. This is the earmark of snobbery of a left kind, a denunciation of “any Red State reading list,” which is the most concise of all attempts to classify Wolfe as an enemy of the only people who matter. The reviewers are themselves inheritors of the “Doe effect”, which defines the indifference to what happens right before one’s very eyes, and which celebrates choice always in terms of the “raucous carnival of American life.” This is the search that the “Doe effect” has canonized; one step beyond a culture of narcissism toward a world in which anything called a “sermon” is to be avoided.

Most college educators are rightly uneasy about sermonizing. After all, they have become the new legion of post-sermonizers on everything from war resistance and tax evasion to race, sex, and class. But these are all, every one of them, sermons of one kind. Call them the blue sermons. They may advocate choice, but they also deride *not* choosing a certain way. The character of these elites has become impervious to a defense of virtue, which is more a way of promoting guilt and humiliation than an attempt at understanding the consequences of one's actions. The blue sermons do not contain a prophetic voice in the form of a reminder of the waywardness of body and soul. Instead, they announce release from personal accountability, except in the most abstract of terms. Higher education has come to be another kind of school of hard knocks, where alcohol consumption, drug use, "unsafe" sex (much less any sex), violence, gambling, and other vices are officially disapproved of with a wink that abhors more than anything else, public notice of rules broken, bent, and ignored. Wolfe's novel is not so much loaded with caricatures, as it is indiscreet in the new way. The worst indiscretion is acknowledging human nature, when the oversight of its waywardness is more a matter of reputation and public health than a moral concern.

Reversing Roe

With eight years of Republican ascendancy, and with bitter acknowledgment on the part of adversaries about the declining fortunes of the Democratic party, talk of the possibilities of reversing *Roe* have acquired a seriousness in tone not heard since the days of a Human Life Amendment to the Constitution in the late 1970s. The failure of constitutional amendments, whether about equal rights or human life, has been met with cultural responses that contain the seeds of social change. In the case of equal rights, whatever may have been lost by proponents, in principle, has been amply made up for in reality by the remarkable progress of women in education and the professions over the past quarter century. The brouhaha at Harvard University about the number of senior women on its faculty suggests something of success in terms of a better understanding of the *consequences* that follow choices. It will be a long time coming, if evolutionary psychologists, rational-choice theorists, and most economists are to be believed, for the emergence of a statistically significant "daddy track." Men of this generation in marriages in the vast middle classes nevertheless know that if there is a "woman behind the man," she is earning a living rather than tending to domestic chores exclusively. What each of us wants to do, what we feel compelled to do, what we conform to, and what we dissent from, are all shaped

in a crucible of culture that will, to some degree, defy stereotypes, but also, as far as social-scientific depiction is concerned, reinforce them. In the reality television of American ambitions, the Harvard faculty's attack on its leadership will have its long-term reckoning in how Harvard leads in the world of ideas and of men and women. It is not immune from that reckoning any more than is any other place. Harvard students may appreciate this more than their teachers do.

This leads to the reckoning about the future of abortion and the culture of privacy that supports it more or less exclusively as an unassailable right. This culture of privacy is also a culture of intense mistrust. In recent years, of all those who have had abortions, 67 percent have never been married. In addition 52 percent were performed on women between the ages of 15 and 24. There is nothing all that surprising about such statistics, where inexperience and youth combine to make for choices that empower some and haunt others. Those for whom such choices are empowering are evermore on the defensive, as religious and spiritual practices reinforce patience about the importance of community standards and moral judgment, if only at this moment in the breach. This marks an important dynamic of all social change, where sentiments must first be in place before laws have meaning, to those obeying as well as breaking them. Any kind of reversal of the culture of mistrust, that so profoundly marks the abortion right in its modern form, will first have to be met with the changes of heart and mind that become for more and more people deeply felt sentiments. This is the significance of what would be a reversal of a now highly symbolic ruling such as *Roe*. The distribution of abortion services in the United States today reflects more than anything else what would have been the case if *Roe* had never existed. *Roe* and *Doe* are forces that created sentiments about rights that have been under siege since the start.

It is little surprise that in the passing moment of intense scrutiny that left no one without an opinion about Terri Schiavo's fate, the problems of dependence and trust at the end of life are understood to be as hauntingly similar and as difficult as those at the beginning. In the era of "rights" now passing, the imposition of moral sentiments other than in the celebration of individual choice may always feel Draconian to those who insist a backlash is underway, but against this culture of mistrust, even they may come to recognize the constructive force of such change, when someone else has to make decisions about their own lives in their waning years.

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