CUOMOLOGICAL FALLACIES

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Mario Cuomo is widely admired as one of our nation's most intelligent and thoughtful public servants. Indeed, the former governor, who is also a former law professor, is regarded as an intellectual as well as a statesman. He is a student of history, philosophy, and theology. His speeches and writings reflect an impressive range of intellectual interests. So what happened to Mario Cuomo at the forum on Politics and Faith in America on October 2, 2002?

Something went wrong. Indeed, things began going wrong almost right off the bat. In setting up his analysis of the question of religious faith in politics, Cuomo evidently forgot about the elementary principle of logical argumentation that forbids employing as a premise the very proposition one is marshaling an argument to prove. In his essay in this volume, which is based on his presentation at that forum, Cuomo asserts that holders of public office who happen to be Catholic have a responsibility "to create conditions under which all citizens are reasonably free to act according to their own religious beliefs, even when those acts conflict with Roman Catholic dogma regarding divorce, birth control, abortion, stem cell research, and even the existence of God." According to Cuomo, Catholics should support legalized abortion and embryo-destructive research, as he himself does, because in guaranteeing these rights to others, they guarantee their own right "to reject abortions, and to refuse to participate in or contribute to removing stem cells from embryos." But Cuomo's idea that the right "to reject" abortion and embryo-destructive experimentation entails a right of others, as a matter of religious liberty, to engage in these practices is fallacious. The fallacy comes into focus immediately if one considers whether the right of a Catholic (or Baptist, or Jew, or member of any other faith) to reject infanticide, slavery, and the exploitation of labor entails a right of others who happen not to share these "religious" convictions to kill, enslave, and exploit.

By the expedient of classifying prolife convictions about abortion and embryo-destructive experimentation as "Roman Catholic dogmas," Cuomo smuggles into the premises of his argument the controversial conclusion he is trying to prove. If prolife principles were indeed merely dogmatic teachings—such as the teaching that Jesus of Nazareth is the only begotten Son
of God—then according to the church itself (not to mention American constitutional law) they could not legitimately be enforced by the coercive power of the state. The trouble for Cuomo is that, if the prolife principles are not mere matters of dogma nor are they understood as such by the Catholic Church, whose beliefs Cuomo claims to affirm, or by prolife citizens, whether they happen to be Catholics, Protestants, Jews, Muslims, Hindus, Buddhists, agnostics, or atheists. Rather, prolife citizens understand these principles and propose them to their fellow citizens as fundamental norms of justice and human rights that can be understood and affirmed even apart from claims of revelation and religious authority.

If Cuomo would like to persuade us to adopt his view that people have a right to destroy nascent human life by abortion or in embryo-destructive research, it is incumbent upon him to provide a rational argument in defense of his position. It will not do to suggest, as Cuomo seems to suggest, that the sheer fact that the Catholic Church (or some other religious body) has a teaching against these practices, and that some or even many people reject this teaching, means that laws prohibiting the killing of human beings in the embryonic and fetal stages violate the right to freedom of religion of those who do not accept the teaching. If that were anything other than a fallacy, then laws against killing infants, owning slaves, exploiting workers, and many other grave forms of injustice really would be violations of religious freedom. Surely Cuomo would not wish to endorse that conclusion.

Yet he provides no reason to distinguish those acts and practices putatively falling within the category of religious freedom from those falling outside it. So we must ask: If abortion is immunized against legal restriction on the ground that it is a matter of religious belief, how can it be that slavery is not similarly immunized? If today abortion cannot be prohibited without violating the right to religious freedom of people whose religions do not object to abortion, how can Cuomo say that the Thirteenth Amendment’s prohibition of slavery did not violate the right to religious freedom of those in the nineteenth century whose religions did not condemn slaveholding? Cuomo cannot respond to this challenge by asserting that, religious teachings aside, slaveholding really is an unjust practice and abortion is not. Cuomo takes pains to assure us that he believes what the Catholic Church teaches about abortion: that is to say, that it is nothing less than the unjust taking of innocent human life. Nor, I hope, would Cuomo wish to retreat to the position that those nineteenth-century politicians who recognized the profound injustice of slavery should have supported a “right” to
own slaves, on the “prudential” ground that no social consensus existed at the time on the question of slaveholding. Surely this is not what Cuomo means in mentioning “an American Catholic tradition of political realism” in connection with the slavery question “in the late nineteenth century.” Cuomo says that the Catholic Church “understands that our public morality depends on a consensus view of right and wrong,” but it would be scandalous to argue that Catholics should have opposed a constitutional amendment abolishing slavery in the nineteenth century, or legislation protecting the civil rights of the oppressed descendants of slaves in the mid-twentieth century, on the ground that “prudence” or “realism” requires respect for “moral pluralism” where there is no social “consensus” on questions of right and wrong.

At one point at the forum on Politics and Faith, Cuomo suggested that laws against abortion and embryo-destructive research would force people who do not object to such things to practice the religion of people who do. But this another fallacy. No one imagines that the constitutional prohibition of slavery forced those who believed in slaveholding to practice the religion of those who did not. Would Cuomo have us suppose that laws protecting workers against what he, in line with the solemn teaching of every pope from Leo XIII to John Paul II, considers to be exploitation and abuse have the effect of forcing non-Catholic factory owners to practice Catholicism?

At another point, in denying that there was any inconsistency between his willingness as governor to act on his anti-death penalty views but not on his anti-abortion views, Cuomo denies ever having spoken against the death penalty as “a moral issue.” He claims, in fact, that he “seldom talk[s] in terms of moral issues” and that, when he speaks of the death penalty, he never suggests that he considers it a moral issue. Then, in the very next sentence, he condemns the death penalty in the most explicitly, indeed flamboyantly, moralistic terms: “I am against the death penalty because I think it is bad and unfair. It is debasing. It is degenerate. It kills innocent people.” He does not consider that these are precisely the claims made by pro-life citizens against the policy of legal abortion and its public funding—a policy that Cuomo defends in the name of religious liberty.

After more than two decades of bobbing and weaving on the subject of prenatal homicide, it is time for Mario Cuomo to face up to the fact that people who oppose abortion and embryo-destructive research oppose these practices for the same reason they oppose postnatal homicide. Catholics
and other prolife citizens oppose these practices because they involve the deliberate killing of innocent human beings. Their ground for supporting the legal prohibition of abortion and embryo-destructive research is the same ground on which they support the legal prohibition of infanticide, for example, or the principle of noncombatant immunity even in justified wars. They subscribe to the proposition that all human beings are equal in worth and dignity and cannot be denied the right to protection against killing on the basis of age, size, stage of development, or condition of dependency.

If Cuomo is indeed the faithful Catholic he claims to be, then he too believes this. But if he does believe it, then he has no rational warrant for denying that the unborn, like the newly born, are entitled to the equal protection of the laws—above all, the laws against homicide. His claim that one can be “personally opposed” to abortion yet support its legal permission and even its public funding collapses. But things are worse for Cuomo, for by supporting the right to abortion and embryo-destructive research he is implicating himself in the injustice of these practices.

As governor of New York and as an influential figure in national Democratic Party politics, Cuomo has actively defended legal abortion and its public funding. From his own perspective, he was protecting not abortion as such but, rather, a woman’s right to choose an abortion. The resulting abortions, he no doubt told himself, were in no way his responsibility. If they were wrong, unjust, even homicidal (as the Catholic Church teaches, and as Cuomo presumably believes—after all, why otherwise would he profess to be opposed to abortion and to believe what the church teaches about its wrongfulness?), they were not burdens on his conscience. While defending others’ right to choose what he himself “personally opposed,” he did not encourage them to exercise that right. Indeed, Cuomo might contend that he actually reduced the number of abortions by advancing social and economic policies that helped women to avoid unwanted pregnancy and enabled women who did become pregnant to afford to carry their babies to term. In any event, I assume that Cuomo’s sincere hope was that fewer, rather than more, women would choose abortion, despite his belief that the choice was their right.

Of course, it is possible for a person wielding public power to use that power to establish or preserve a legal right to abortion and even to provide public money for it while at the same time not wanting or willing anyone to exercise the right. But this does not get Cuomo off the hook. For someone who acts to protect legal abortion necessarily wills that abortion’s
unborn victims be denied the elementary legal protections against deliberate homicide that one favors for oneself and those whom one considers to be worthy of the law's protection. Thus one violates the most basic precept of normative social and political theory, the Golden Rule. One divides humanity into two classes: those whom one is willing to admit to the community of the commonly protected and those whom one wills to be excluded from it. By exposing members of the disfavored class to lethal violence, one deeply implicates oneself in the injustice of killing them—even if one sincerely hopes that no woman will act on her right to choose abortion. The goodness of what one hopes for does not redeem the evil of what one wills. To suppose otherwise is to commit yet another fallacy.