

Contraception, Rights, and Total State Control

By James V. Schall, S.J., June 08, 2014

Charles E. Rice's new book argues that once absolute relativism is established as the state "religion" there is no limit to what the state can and will do

"There are many paths to total state control of life—fascism, totalitarianism, communism. In the United States the path is labeled protection of individual human rights."

— Charles E. Rice, *Contraception & Persecution* (2014), 86.

I.

Contraception & Persecution is a brief, blunt analysis of our polity. It presents a clear line of thought to explain, to those who will listen, the totalitarian nature of our present regime. This regime no longer follows the basic moral and philosophic premises of its founding. Nor does it acknowledge the basic human good by which any regime is limited. Indeed, Rice argues that the American founding itself, for all its genius, was flawed. It recognized no authentic interpreter of the natural law that was presupposed from Christian and classic sources by those who established this republic.

Eventually, this lack of an authoritative interpreter meant that the state itself would become the sole arbitrator of what was the human good. The state itself came to be the highest law. It would recognize no other authority but itself; no one could appeal to a higher law. As a people we are reluctant to admit that things could go so wrong. We are comfortable and hate to think things have so radically deviated from any true human good. The result is that we do not take seriously the intellectual nature of our obvious decline into an increasingly anti-human state.

Through the interpretation of the courts, the lack of understanding or resistance by Congress, and the multiplicity of arbitrary decrees now stemming from the Executive, this founding flaw has solidified itself as the ruling doctrine of the public order—"whatever the prince wills is the law"—to cite the classic Roman Law dictum designating the state with no limits.

Basically, we have established absolute relativism as the state "religion."

Of its very nature, this state brooks no opposition. It has no authority higher than itself. It is now in the process of overturning all the tenets of classical familial and the public order stemming from it. Step by step, this all-powerful state disallows and subjects to punishment any criticism

of its agenda or scope. All of this absolutism is imposed on the citizens, often with their consent, in the name of "rights". The avenue by which these "rights" have gained full control of the civil power in all its branches is through an unproven and unprovable denial. That is, it arbitrarily affirms that no order exists in nature that would or could indicate what we, as human beings, really are, and how we ought to live and act for our own good.

In this light, the title of Rice's book will at first seem odd—*Contraception & Persecution*—what, pray tell, has contraception to

do with persecution? As it turns out, everything. In a book that serves as a companion and corroboration of Robert R. Reilly's *Making Gay Okay* (see my review essay, "[Homosexuality and the Logic of a Disordered Polity](#)"), Professor Rice spells out both the legal and philosophical steps by which the limits that were intended to protect us from the absolute state and its "ruling classes" have now been mostly eliminated. We live in an almost unrecognizable polity in which no limits can be assigned to the government. No area of life exists over which the state at any level cannot and does not claim immediate jurisdiction and coercive power. Even our very words are increasingly controlled by "hate language" laws that the state imposes to guarantee its version of "rights".

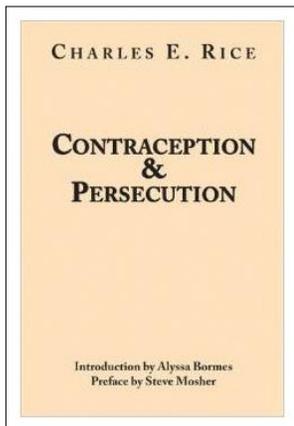
But this democratic acceptance of totalitarian principles is not the



A woman leads a chant in front of the U.S. Supreme Court in Washington against the federal government's contraceptive mandate March 25. CNS photo/Tyler Orsburn)

cause of our problem. It is rather the result of disorders of soul. Rice is quite frank—he recognizes the widespread and often defining participation of Catholics voices and leaders in this new polity. They are not only judges and politicians, but also bishops and even elements in the Vatican. They have failed to provide intellectual and moral leadership; they did not (or would not) foresee what eventually is at stake in our culture, even though it was in the logic of civil disorder from the beginning. We find a great lack of the intellectual courage of which Plato spoke so highly.

It will, no doubt, be thought absurd by many that issues of morality could undermine a republic, even though classical authors have held this possibility from the beginning of our culture. Rice begins with the obvious fact that we have mostly replaced the legal and moral idea that the purpose of marriage between a man and a woman is to form a family in which children can be begotten, born, and raised by their own parents for the continuation of our kind in this world. The love of spouses goes along with this purpose; it must remain open to human life at the cost of undermining love itself. Rice argues that, historically, most of the Christian people and their institutions understood this connection. But with the entrance of birth control approval by the Anglican Lambeth Conference in 1930, a fatal separation of love and children was established. What we have seen in the eighty years after this



conference is a carrying out of its logical consequences in our customs and laws.

If there is no necessary connection between children and the marital relation of a man and a woman in their relation to each other, what follows is that any sort of relationship, whether fertile or not, becomes legitimate. For the very act of contraception, in whatever form it takes, establishes the principle that sex need not be related to children in any way. This naturally and necessarily infertile condition is intrinsic to the homosexual relation. The kind of legal "marriage" it now claims as a "right" is at best a settlement about property. It can never provide what children really want and need, that is, a father and a mother in a stable relationship of caring for one another. But next we allow, as we have allowed, the basic begetting to be ruled by scientists and technicians. Children are begotten and designed outside the womb. The care of such children becomes highly ambiguous. Are they but subjects of the state?

If children are a product, not of the relation of a man and a woman, but of control of their ova and sperm by technicians, the latter, in the name of science, can "experiment". Perhaps, as even Plato speculated, they can produce better human beings if they have no direct relation to their proper father and mother. Much of what we are seeing, of course, was anticipated by Plato and in the last century by Aldus Huxley in his *Brave New World*, published in 1932. But these men were aware of the dangers such practices entailed. We, however, seem oblivious.

II.

Rice is very good at showing how finely things put together by God and nature belong together. What we know as human nature itself is not some arbitrary collection of parts. It is an intricately woven person with a body, and a soul that vivifies it. Through the soul it has intellection to see what it is and how to guide it. Moreover, as both the fine Introduction and Preface of this book point out, the full understanding of what human life is—its relation to God and family—has not been well preached or understood. There has been a strange reluctance to challenge the on-going ethos of our time, an ethos that has been undermining what it is that men and women really are, want, and need.

Perhaps the main point of Rice's book is the realization that each conceived human person, whether allowed to live or not, is created for eternal life, though in his life and deeds he can reject that for which he exists. This purpose of man's being will not change. In this context, those responsible for undermining the conditions or life of actual human beings are the focus of both the divine mercy and the divine judgment.

Again, the disorder of polity follows from disorder of soul. But once we set our foot on a deviant step away from the human good, we will find that the next and more deviant step immediately confronts us until we have, in the name of our "rights," succeeded to undermine the whole moral and political order. The arguments and positions by which courts, legislators, and executives use to justify their new "rights" to divorce, contraception, abortion, homosexuality, gay marriage, and human experimentation are all posed in the name of something noble: individual rights. But they actually each lead to a greater disorder in the human body and soul, in the body politic.

"Rights", of course, are the modern heritage of Hobbes and Locke. At first, they look like another way to express human dignity. But they begin by postulating a lone individual, not an actual individual who is born into a family. "Rights" are still proposed in the name of the individual good even when they include abortion and the deprivation of children of proper homes and parents.

"Rights", then, are what are "due" to me. No one but me can tell what is due to me. Therefore, society and state have a duty to support me in what I want for myself, since that is my "right". And if I have a "right" to something, it is ultimately the state that must guarantee that "right" to me. But when the state is the ultimate guarantor of my rights, it is also the one that decides which of my "rights" it will enforce. That is, it rules me by my "rights".

In this context, there is only one "wrong"—the claim that some objective order exists to which and on which true human dignity and happiness exist. This claim is now looked upon as fanatic or totalitarian. It forms the basis on which the state now increasingly proposes to control religion and philosophy, which become themselves functions of the state and its purposes.

Rice argues that the real issue is the first commandment, whether we will first worship God or ourselves. He sees that efforts to replace marriage are themselves implicitly attacks on the Godhead from whom order exists in things, including human things. This view probably explains why religion must be reduced to a function of the state. Religion must be only a kind of subjective private activity that goes on in out of the way places we call "churches".

We no longer care what goes on in the places of worship we allow to exist. But nothing that goes on there can have any effect in the public order. No religion can be exempt from what the law requires men to do or hold. Conscience is at best purely subjective.

What does not conform to what the state decrees has no "rights". This is the effect, as Rice shows, of the HHS mandate. Rice rightly sees these thought processes and laws as the context of increasing persecution by the state of religion. The only caveat I would make with this thesis is that it is not really an issue of religion but of reason. It is no accident that the main line of defense of reason in the world today is the Catholic Church in so far as it remains loyal to its own tradition, which many Catholics have chosen to not do. But it is the Catholic tradition that has been the protector of not just revelation but of reason.

In this sense, the contribution of John Paul II and Benedict XVI to reason itself has been unprecedented. The defenders of religion have first to defend man as he is. It is precisely because the advocates of various forms of "rights" want to have another form of human being that they have zeroed in on the Church as it stands for reason.

And it is in the logic of disorder of soul that the state cannot and will not stop its aggrandizing mission until it has eliminated all opposition. This elimination is the context of the persecution that Rice sees everywhere on our immediate horizon. That is, it is already taking place. We do not readily admit that it is the legacy of our own refusal to see the logic of contraception itself and its corroding effects on every institution of society. But the effect of this logic is what animates our public order today. This is what Charles Rice is at pains to point out.

Contraception & Persecution

by Charles E. Rice

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