



Samford University

From the Selected Works of David M. Smolin

Fall 2021

Aborting Motherhood: Adoption, Natural Law, and the Church

David M. Smolin



Available at: https://works.bepress.com/david_smolin/23/

ABORTING MOTHERHOOD

Adoption, Natural Law, and the Church

David Smolin

Is it right or natural that a woman should be expected to go through pregnancy and childbirth, surrender her baby to strangers, and then go on with her life as though nothing had occurred, never knowing what happened to her child, as though she was never a mother? Is it right or natural that an entire segment of society would be denied the opportunity to ever know, or even know about, their natural parents, including the women who carried and birthed them?

This is what society and the church expected of single pregnant women and their children in the United States between 1945 and 1973.¹ The United States was a part of a global “baby scoop era” in which single pregnant women in Australia, Belgium, Canada, Ireland, New Zealand, and the U.K. were often pressured and even forced to relinquish their children through intermediaries to unknown strangers.² This coercive and cruel treatment of the unwed mother and her child is also expressed in the industrial school and mother and baby home scandals in Ireland.³ Catholic and Protestant churches and institutions, in concert with the state, society, and the social work profession, normalized the separation of mother and child in the context of unmarried births.⁴ This normalization of separation of children from natural parents was also fueled by the popularity of eugenics in the early twentieth century, with single mothers labeled “imbeciles” and the United States Supreme Court upholding forced sterilization with its infamous line that “three generations of imbeciles are enough.”⁵

¹ See, e.g., ANN FESSLER, *THE GIRLS WHO WENT AWAY: THE HIDDEN HISTORY OF WOMEN WHO SURRENDERED CHILDREN FOR ADOPTION IN THE DECADES BEFORE ROE V. WADE* (2006); Cecilia E. Donovan, *Taking Matters Into Their Own Hands: Social Workers and Adoption Practices in United States Maternity Homes* (Apr. 3, 2019) (unpublished B.A. thesis, University of Colorado) (on file with University of Colorado), https://www.colorado.edu/history/sites/default/files/attached-files/donovan_thesis.pdf; Elizabeth J. Samuels, *Surrender and Subordination: Birth Mothers and Adoption Law Reform*, 20 MICH. J. GENDER & L. 33 (2013).

² See, e.g., INT’L SOC. SERV., *RESPONDING TO ILLEGAL ADOPTIONS: A PROFESSIONAL HANDBOOK* 35-39, 187-88 (Christina Baglietto, Nigel Cantwell & Mia Dambach eds., 2016), https://www.iss-ssi.org/images/News/Illegal_Adoption_ISS_Professional_Handbook.pdf; Senate Standing Committees on Community Affairs, Parliament of Australia, *Commonwealth Contribution to Former Forced Adoption Policies and Practices* (Report, Feb. 29, 2012) [hereinafter *Commonwealth Contribution*], https://www.aph.gov.au/parliamentary_business/committees/senate/community_affairs/completed_inquiries/2010-13/commcontribformerforcedadoption/report/index; ORIGINS AUSTRALIA, <http://www.originsnsw.com/> (last visited July 27, 2021).

³ See, e.g., GOV’T OF IR., DEPARTMENT OF CHILDREN, EQUALITY, DISABILITY, INTEGRATION AND YOUTH, *FINAL REPORT OF THE COMMISSION OF INVESTIGATION INTO MOTHER AND BABY HOMES* (Jan. 12, 2021), <https://www.gov.ie/en/publication/d4b3d-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes/>; CLANN: IRELAND’S UNMARRIED MOTHERS AND THEIR CHILDREN: GATHERING THE DATA, <http://clannproject.org/>.

⁴ See sources cited *supra* notes 1-3.

⁵ *Buck v. Bell*, 274 U.S. 200, 207 (1927).

For Christians, this issue concerns the intersection of ideals, rules, and the gospel. Traditionally Christianity has expressed the norm of a two-parent family, and sexuality and child-bearing as appropriately situated within marriage.⁶ The baby scoop era occurred in contexts where those norms were enforced by coercing and pressuring vulnerable single pregnant women to relinquish their babies within the context of adoption systems dominated by secrecy and shame. While the law theoretically required consents to be voluntary, there is overwhelming documentation that for many women—including especially many middle-class and churched young women—the pressures were overwhelming. Women were given the impression, and treated as though, they had no choice in the matter. Priests, ministers, churches, parents, relatives, doctors, nurses, social workers, and friends sent the message that the only legitimate pathway was to hide the pregnancy and birth and secretly relinquish the child for adoption. The motherhood of these women was systematically repudiated by church and society, leading them to believe that they could not regard themselves as the mothers of the children they bore. Whether denigrated and shamed as uniquely fallen sinners—as seems to very frequently have been the case—or treated more gently as fellow redeemed sinners, the message was clearly that they must forever hide their pregnancies and births. Their motherhood could only be a shameful thing, never something to be embraced or acknowledged.⁷ The most descriptive term, although shocking perhaps to those used to hearing of adoption as an alternative to abortion, is to say that *in this way of practicing adoption their motherhood was aborted*.

To state it in this way is admittedly provocative, but properly so. For the same churches that have insisted that life begins at conception, that there is no such thing as being “a little bit pregnant,” and that a pregnant woman is *already* a mother, systematically repudiated the motherhood of single pregnant women. For purposes of abortion, Catholics and evangelicals maintain that the woman is a mother starting at conception,⁸ yet for purposes of adoption they repudiated the motherhood of women who went through nine months of pregnancy and childbirth.

The numbers are staggering: an estimated 1.5 million babies placed for adoption by single mothers from World War II to 1974, in the United States alone.⁹ This is not to say that every single adoption during that era was unethical. However, the adoption practices of the recent past have brought into question not just the ethics of individual adoptions, but an entire way of doing adoptions, both in the United States and globally.¹⁰ The baby-scoop era crystallized, legally and culturally, our current model of adoption, suggesting that the foundation of contemporary adoption practice are essentially flawed.

⁶ See, e.g., CATECHISM OF THE CATHOLIC CHURCH, art. 7 (2d ed. 2012).

⁷ See sources cited *supra* notes 1-3; see also E. Wayne Carp, *Jean Paton, Christian Adoption, and the Reunification of Families*, J. CHRISTIAN LEGAL THOUGHT, Spring 2012, at 20-22; Clara Daniels, *A Mother's Story*, J. CHRISTIAN LEGAL THOUGHT, Spring 2012, at 23-25 (recounting a narrative of a more recent adoption that mirrors those which occurred during the baby-scoop era).

⁸ See, e.g., CATECHISM OF THE CATHOLIC CHURCH, §§ 2270-2275 (2d ed. 2012); Southern Baptist Convention, *Resolution on Abortion* (June 1, 1984), <https://www.sbc.net/resource-library/resolutions/resolution-on-abortion-7/>.

⁹ See Penelope L. Maza, *Adoption Trends: 1944-1975*, THE ADOPTION HISTORY PROJECT, <https://darkwing.uoregon.edu/~adoption/archive/MazaAT.htm> (last visited on July 27, 2021); Samuels, *supra* note 1, at 35 n.2 (explaining estimates).

¹⁰ See sources cited *supra* note 1.

The narratives of women who regret losing their children to adoption echo the narratives of women who regret their abortions. There is the same sense of being pressured by difficult circumstances, manipulative intimates, and powerful strangers into an irredeemably painful “choice.” There is the same denial of one’s nature as a woman and a mother, and of one’s relationship to a child. There is the same gnawing, endless regret often twisted into a self-loathing that can make it difficult to deem oneself worthy of life or love. There is the same difficulty with special anniversaries, such as the child’s birthdays (real in adoption but only projected in abortion). There is the same sense of trauma that makes it difficult to follow the promised path of being “freed” by the abortion/adoption for a “normal” life; instead, all too often it is as though a part of the woman was left dead back at the hospital. There are the same difficulties about having and loving another baby: the struggle to overcome depression and trauma in order to be fully present for and worthy of the mother’s later-born children. There are strangely similar accounts of the clinical settings, with detached medical providers who remove fetuses/babies seemingly as though the mother were a piece of unfeeling flesh; of metal stirrups and drugs that blur one’s consciousness; and being acted upon rather than acting; of losing the baby, often in adoption without even being permitted to lay eyes upon one’s own child.¹¹

Recognition of these wrongs has begun outside of the United States. After an inquiry in Australia revealed an estimated 150,000 forced adoptions of children of single mothers,¹² Catholic Health Australia, representing seventy-five Catholic hospitals, issued a national apology.¹³ The inquiry had described women during labor and childbirth being “drugged and shackled to beds”¹⁴ and prevented from seeing their children being born or holding them afterwards, sometimes through having “a pillow or sheet...placed over their heads.”¹⁵ Mothers whose children were targeted for adoption were told that they could not oppose the decision, and were not told of their rights to revoke consents. Catholic Health Australia admitted that wrongful practices had been “regrettably common in many maternity hospitals across Australia.” Admitting that prior adoption practices had “devastating and ongoing impacts on mothers, fathers, children and families,” Catholic Health Australia acknowledged “the pain of separation and loss felt then and felt now by the mothers, fathers, children, families and others involved in the practices of the time.”¹⁶ The government of Australia also issued an official national apology, on March 21, 2013.¹⁷

Unfortunately, too many remain oblivious both to the harms of past adoption practices, and to continuing abusive adoption practices. We are nowhere near a national

¹¹ See sources cited *supra* notes 1-3, 7; DAVID REARDON, *ABORTED WOMEN, SILENT NO MORE* (1987); ROSALIND P. PETCHESKY, *ABORTION AND WOMAN’S CHOICE: THE STATE, SEXUALITY, AND REPRODUCTIVE FREEDOM* 109, 133 n.7 (rev. ed. 1990).

¹² See *Commonwealth Contribution to Former Forced Adoption Policies and Practices*, *supra* note 2; see also Department of Social Services, *Forced Adoption Practices* (Austl.), <https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/forced-adoption-practices>.

¹³ *CHA delivers formal apology for forced adoptions*, CATHNEWS (Sept. 26, 2011), <https://cathnews.com/cathnews/2566-cha-delivers-formal-apology-for-forced-adoptions> (describing Opening Statement of Martin Lavery, CEO of Catholic Health Australia, to the Senate Community Affairs Committee Inquiry into the Commonwealth Contribution to Former Forced Adoption Policies and Practices on Sept. 28, 2011).

¹⁴ See *Forced Adoption Practices*, *supra* note 12.

¹⁵ See *Commonwealth Contribution*, *supra* note 2, at 48, § 3.53.

¹⁶ See sources cited *supra* note 13.

¹⁷ See *Forced Adoption Practices*, *supra* note 12.

apology in the United States, despite heart-rending accounts coming increasingly into view of cruelties committed commonly against mothers.¹⁸ In addition to apologies, remedies are required, and also investigation and analysis of what went wrong and how those mistakes have become incorporated into law, culture, and adoption practice.

THE LOST HISTORY OF CHRISTIAN EFFORTS TO HELP SINGLE MOTHERS KEEP AND RAISE THEIR CHILDREN

The history of Christian ministry to single mothers and their children prior to the baby-scoop era has been described by historians, and yet remains unknown to most. Originally, Christian maternity homes in the United States were designed to help keep mother and child together, but eventually the homes became a central part of the baby-scoop process of pressuring and coercing single mothers to place their babies for adoption. Christian institutions transitioned to their policies of separating single mothers and their child under the influence of the secular experts of the time from social work, psychology, and psychiatry, as these increasingly prestigious professions viewed single mothers as unfit to raise their own children.¹⁹ This is one instance in which religious organizations following the trends of secular experts produced profound harm.

One way to describe the earlier Christian efforts to keep unmarried mother and child together is to focus on the largest group of homes, called Florence Crittenton homes, and incorporated under the banner of the National Florence Crittenton Mission (NFCM). The story can be dramatized through recounting the story of a little girl named Florence Crittenton who died of scarlet fever at age four, her heartbroken father Clarence Nelson Crittenton, and Dr. Kate Waller Barrett.

Florence and Clarence Crittenton

Clarence Nelson Crittenton was born in 1833; he was raised by a large family on a farm in rural New York, and then moved to New York City to seek his fortune in business.²⁰ He became extremely successful in the wholesale drug business.²¹ Although raised in a Christian family, Crittenton described himself as having been worldly and unconverted when he was a successful and reputable businessperson, being addicted to financial success and conspicuous consumption.²²

Crittenton married, had a son who died of scarlet fever, and a daughter, Addie, a gifted musician.²³ When Addie was thirteen another daughter, Florence, was born to the family.²⁴ Crittenton became extremely attached to little Florence, and she to him; Florence

¹⁸ See, e.g., sources cited *supra* notes 1, 7.

¹⁹ See KATHERINE G. AIKEN, *HARNESSING THE POWER OF MOTHERHOOD: THE NATIONAL FLORENCE CRITTENTON MISSION, 1883-1925*, 1883—1925 1 (1998); see also sources cited *supra* note 1; REGINA G. KUNZEL, *FALLEN WOMEN, PROBLEM GIRLS* (1993); Diane Bernard & Maria Bogen-Oskwarek, *WASH. POST*, November 19, 2018, <https://www.washingtonpost.com/history/2018/11/19/maternity-homes-where-mind-control-was-used-teen-moms-give-up-their-babies/>.

²⁰ AIKEN, *supra* note 19, at 1-2.

²¹ *Id.* at 2.

²² See CHARLES N. CRITTENTON, *THE BROTHER OF GIRLS: THE LIFE STORY OF CHARLES N. CRITTENTON AS TOLD BY HIMSELF* 20-23, 36-38, 48-52, 54-56 (1910).

²³ *Id.* at 39-42, 53, 57-61.

²⁴ *Id.* at 62; AIKEN, *supra* note 19, at 2.

called herself “Papa’s Baby.”²⁵ Each night he got her ready for bed and sang her favorite hymn, “The Golden Harp,” with Florence often joining in the chorus: “I want to be with Jesus/And play on the golden harp.”²⁶

His autobiography describes a Sunday morning he spent with little Florence, taking a long walk “instead of being at church where I should have been.”²⁷

As we went along the street I looked at [Florence] with pride, thinking how beautiful she was, dressed so daintily in her little velvet coat and bonnet, and with her dark eyes dancing with pleasure, her cheeks like roses. When we returned home...I was sitting alone in the parlor and the thought came to me, “What would you do if she should be taken from you? You are loving that child too much. You are making an idol of her.” ...[T]he thought went through me like a dagger....²⁸

Shortly afterward Florence became ill with scarlet fever.²⁹ His first thought, “sinner though I was,” was “to go to God in prayer.”³⁰ He took his daughter Addie into a room to pray.³¹ However, he then remembered with guilt that when Addie had been ill with typhoid fever he had promised God that “if He would spare her life, I would serve Him the remainder of my days, but my child had no sooner been restored to health than I forgot my promise.... This thought chilled the prayer on my lips....”³²

As Florence lay burning with fever, she asked her father to sing “In the Sweet Bye and Bye”:

With a voice choked with sobs, and a breaking heart, I tried to sing the hymn. As I sang, her little bosom began to heave, and she had to struggle for breath. As I looked at her, I longed that I could only breathe for her, do something to help her ease her sufferings; but I was perfectly helpless, and just had to sit and see her little life go out.³³

Florence was four years, four months, and four days old when she died.³⁴ Crittenton was struck with a deep depression.³⁵ He became obsessed with the question of “why God had taken my child.”³⁶ “Business and the world and all that pertained to it had lost its charm.”³⁷ Crittenton found comfort only in going constantly to Florence’s grave.³⁸

²⁵ AIKEN, *supra* note 19, at 2; CRITTENTON, *supra* note 22, at 62-64.

²⁶ AIKEN, *supra* note 19, at 2; CRITTENTON, *supra* note 22, at 63-64.

²⁷ CRITTENTON, *supra* note 22, at 64.

²⁸ *Id.*

²⁹ *Id.* at 65.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*; *see also* AIKEN, *supra* note 19, at 2.

³⁴ AIKEN, *supra* note 19, at 2.

³⁵ AIKEN, *supra* note 19, at 19; CRITTENTON, *supra* note 22, at 67.

³⁶ CRITTENTON, *supra* note 22, at 68.

³⁷ *Id.*

³⁸ *Id.* at 67.

Eight months later, a verse of scripture kept coming to Crittenton's mind: "As many as I love, I rebuke and chasten; be zealous, therefore, and repent."³⁹ He seemed to hear little Florence say: "Papa, I can't come to you, but you can come to me."⁴⁰ Crittenton realized the possibility that God loved him and was going to reunite him with Florence in heaven.⁴¹ He threw himself on his knees in prayer, pouring out his heart to God in prayer.⁴² Determined to pray until he knew whether he was lost or saved, Crittenton emerged with assurance of salvation and peace in his soul.⁴³

The narrative of Florence's short life and early death, and its impact on her father, became central to the evangelical work of Charles Crittenton. Known popularly as the merchant evangelist, Crittenton re-told the story innumerable times as a famed traveling evangelist.⁴⁴

The narrative became foundational for the "Florence Crittenton homes," which became the largest group of rescue and maternity homes in the United States, existing in at least seventy-three cities in the United States by the early 1900s.⁴⁵ The initial purpose of Crittenton's rescue homes was as a means to reclaim sex workers.⁴⁶ The call to such "rescue work" came when Crittenton was invited to minister in the slums, and there was introduced to two young sex workers. Crittenton told them the story of God's giving him a little child named Florence and how "He had taken her home, and how this sorrow had been the cause of my conversion. When I finished ...the girls were weeping as if their hearts would break, and both of them expressed the desire to lead a Christian life."⁴⁷ "As they prepared to say good-bye, Crittenton said 'Go and sin no more.'"⁴⁸ "One of the girls, weeping, replied 'But where can I go?' WHERE can she go?" wondered Crittenton to himself.⁴⁹ Thus came Crittenton's call to rescue work.⁵⁰

In 1883, Crittenton open the first "Florence Mission."⁵¹ The Mission held nightly religious services, while also offering food and shelter to sex workers and homeless women.⁵² A picture of Florence Crittenton was a focal point of the meeting room where the services were held, as well as a vase of white flowers, which symbolized Mary Magdalene, the woman that Jesus had healed from demons, and who is sometimes thought to have been a sex worker before becoming a follower of Jesus.⁵³ The premise of the work was that sex workers could be converted, and from that point on live a consecrated Christian life, some of them going on to full-time Christian service.⁵⁴

³⁹ *Id.* at 70 (quoting *Revelation* 3:19 (King James)).

⁴⁰ *Id.* at 70.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at 70-71.

⁴⁴ AIKEN, *supra* note 19, at 1, 12-13; *see also* CRITTENTON, *supra* note 22, at 95.

⁴⁵ AIKEN, *supra* note 19, at 1.

⁴⁶ *Id.*

⁴⁷ *Id.* at 3; CRITTENTON, *supra* note 22, at 84-85.

⁴⁸ AIKEN, *supra* note 19, at 3; CRITTENTON, *supra* note 22, at 86.

⁴⁹ AIKEN, *supra* note 19, at 4.

⁵⁰ *Id.*; *see also* CRITTENTON, *supra* note 22, at 84-89.

⁵¹ AIKEN, *supra* note 19, at 8; CRITTENTON, *supra* note 22, at 96-97.

⁵² AIKEN, *supra* note 19, at 8.

⁵³ *Id.* at 8, 16.

⁵⁴ *Id.* at 4-22.; *see also* CRITTENTON, *supra* note 22, at 101-112.

Kate Waller Barrett

Dr. Kate Waller Barrett was a remarkable woman who was much honored in her own day, in both church and society, and yet has been largely forgotten. Although she was a product of a prior age including its flaws, nonetheless she still has much to teach us.

Barrett was the decisive figure in the work of the Florence Crittenton homes with unwed mothers.⁵⁵ In 1892 Barrett's husband was the Dean of St. Luke's Episcopal Cathedral in Atlanta, Georgia, and she was the mother of six children.⁵⁶ Barrett was attempting to overcome local resistance and start a rescue home for women.⁵⁷ She wrote to Charles Crittenton, requesting financial assistance; he responded by sending a representative and a generous donation, asking that the home join the growing chain of Florence Crittenton homes.⁵⁸ Barrett and Crittenton first met in 1893, when he visited Atlanta to attend the Christian Worker's Convention and to preach at her husband's church.⁵⁹ She was profoundly moved by his sermon, and from thenceforth to the end of Crittenton's life they were increasingly drawn together in the work of the Crittenton homes.⁶⁰ After Barrett's husband died in 1896, the thirty-nine-year-old widow became general supervisor and organizer of the National Florence Crittenton Mission (NFCM).⁶¹ Charles Crittenton continued as President, but with his busy schedule of itinerant evangelism left most of the supervision of the growing network of Crittenton rescue homes to Barrett.⁶² As the homes gradually turned predominately to assisting unwed mothers, rather than sex workers, Barrett defined the approach taken to the unwed mother and her child.⁶³ When Crittenton died in 1909, Kate Barrett became the President of the NFCM, heading a movement of over seventy maternity homes.⁶⁴ She held that post until her death in 1925. After Kate Barrett's death, her son, Robert Barrett, became President, and her daughter, Reba Barrett Smith, became general superintendent; hence Barrett's approach and influence, albeit with some modifications, continued for another generation after her death.⁶⁵

Barrett was a national figure in her day. She was a charter member and Vice President of the League of Women Voters, President of the National Conference of Women, Vice President of Virginia Equal Suffrage, President of the American Legion Auxiliary.⁶⁶ She served as a Special Representative of the United States government in Europe for the Bureau of Immigration, advising on women's issues.⁶⁷ President Wilson

⁵⁵ AIKEN, *supra* note 19, at 33-66.

⁵⁶ *Id.* at 36.

⁵⁷ *Id.* at 36-37.

⁵⁸ *Id.* at 37; OTTO WILSON, FIFTY YEARS' WORK WITH GIRLS, 1883-1933: A STORY OF THE FLORENCE CRITTENTON HOMES 164-65 (Robert H. Bremner et al. eds., Arno Press 1974) (1933).

⁵⁹ AIKEN, *supra* note 19, at 165; WILSON, *supra* note 58, at 165.

⁶⁰ AIKEN, *supra* note 19, at 57-58; WILSON, *supra* note 58, at 165-67.

⁶¹ AIKEN, *supra* note 19, at 38.

⁶² *Id.* at 38-39.

⁶³ *Id.* at 58-59, 66.

⁶⁴ *Id.* at 68.

⁶⁵ AIKEN, *supra* note 19, at 210.

⁶⁶ WILSON, *supra* note 58, at 176-200; AIKEN, *supra* note 19, at 196-209; *see also* *Dictionary of Virginia Biography*, LIBR.VA., https://www.lva.virginia.gov/public/dvb/bio.php?b=Barrett_Katherine_Harwood_Waller (last visited on July 27, 2021).

⁶⁷ AIKEN, *supra* note 19, at 163-66.

appointed her as an observer at the Versailles Peace Conference.⁶⁸ She was a delegate and gave an acclaimed speech at the 1924 Democratic Party National Convention.⁶⁹ At her death in 1925, the flag over the State Capitol in Richmond was flown at half-mast, the first time in the history of Virginia that this had been done for a woman.⁷⁰

Kate Waller was born in 1857 to a prominent Virginia family; she was the oldest of ten children.⁷¹ She is described as having been a very curious, adventurous, lively, and self-confident girl who as an adolescent chafed under the many restrictions and conventions required by her family and society.⁷² She was educated largely at home by governesses, although she did attend a neighborhood school for one year, with her childhood education completed with two years at the Arlington Institute for Girls.⁷³ Later, at age thirty-four, she completed a medical degree at the Women's Medical College of Georgia.⁷⁴

In 1876, Kate Waller married the Rev. Robert South Barrett, a twenty-five-year-old Episcopal priest and rector.⁷⁵ After the marriage, Rev. Barrett shifted to a parish in a slum area of Richmond, Virginia known as "Butchertown," and so young Kate Barrett moved out of her protected, rural enclave to life as a pastor's wife in a poverty-stricken urban area.⁷⁶ Rev. Barrett energetically ministered to the many needs of the people of the slums, with Kate working as a pastor's wife at his side.⁷⁷ She later described her four years in "Butchertown" as among the happiest of her life, where she first "found opportunity for unimpeded energies, and myself free to follow out the God-given impulses within me."⁷⁸ She soon became pregnant, and described the impact of the "increased happiness" upon her:

The mysterious impulse of motherhood deepened my religious convictions, and standing at the portals of life and death I found out more clearly than ever before my relations to my Creator. I had been accustomed from my childhood to religious observances, but up to this time I do not think I had ever had any feeling of personal responsibility for sin or of a personal Savior.⁷⁹

One evening shortly after the birth of her first child, Robert South, Jr., a woman with a small baby knocked on their door.⁸⁰ Dr. Barrett's description of this transformative encounter captures it best:

⁶⁸ See *Dictionary of Virginia Biography*, *supra* note 66.

⁶⁹ AIKEN *supra* note 19, at 197; WILSON, *supra* note 58, at 200.

⁷⁰ AIKEN, *supra* note 19, at 198; WILSON, *supra* note 58, at 202.

⁷¹ WILSON, *supra* note 58, at 141, 143.

⁷² *Id.* at 147-48.

⁷³ WILSON, *supra* note 58, at 148.

⁷⁴ See *Dictionary of Virginia Biography*, *supra* note 66.

⁷⁵ AIKEN, *supra* note 19, at 34; WILSON, *supra* note 58, at 150-52.

⁷⁶ AIKEN, *supra* note 19, at 34; WILSON, *supra* note 58, at 152-53.

⁷⁷ WILSON, *supra* note 58, at 153.

⁷⁸ *Id.* at 154.

⁷⁹ *Id.*

⁸⁰ *Id.*

Up to this point the so-called “social evil” and the “scarlet woman” lay almost beyond my ken. I had occasionally had women pointed out upon the street who by their dress and behavior were marked out as belonging to the *demi monde*, but I had never been brought into personal contact with one. One night...I was sitting in my cozy little parlor, my husband reading aloud to me, and on the sofa lay my sleeping boy, only a few months old. It was just before Christmas, and a cold, biting rain was falling. There was a ring at the door, my husband went to answer it, and when he returned he brought with him a young girl who held in her arms a baby. He said: “Can you not do something for this woman and child? She has no friends and nowhere to go, and she has no money; get some dry clothes for her and the baby.”

I immediately busied myself with getting some clothes for the baby and some supper for the girl, and when the baby was comfortably clothed I took it and laid it on the other end of the sofa upon which my baby slept.... As she sat there her heart, touched by my sympathy, opened to me and little by little she unfolded to me her sad story.... She too, like myself, was a country girl; she had been reared in almost similar circumstances in Virginia; up to a certain point her life might have been a reflection of mine, but from that time on, how different! The man who had come and wooed me had been honorable and good; the man who had wooed her had been dishonorable and unfaithful, and to this fact more than anything else, possibly, was due the great difference in our lives....

There the two babies lay, side by side, my boy and hers, both with equal possibilities for good, and terrible possibilities for evil; both innocent and pure; both equal in the sight of God; and yet, in the eyes of the world, how different. My boy, with an honored name and a considerate and loving father; her boy, an alien without name or father. My boy, with every door open to him, with every hand stretched out to aid him; her boy, with every door closed to him, with every agency of society against his future progress. And when I realized that in this unequal struggle against this helpless, trusting, heartbroken woman and her nameless baby, good men and bad men, good women and bad women stood shoulder to shoulder to keep her down and out, and to make it almost impossible for her to be an honest woman and true mother—that the unjust laws of society denied to her the right to deem the mistakes of the past by an unblemished future—my very blood boiled within me. It was all so different from what I had thought and imagined. Where, was the terrible degradation, the hopeless depravity, the groveling nature with which I had always been taught to associate the fallen woman? I heard, with startling directness, our Savior’s question to Simon: “Seest thou this woman?” Almost unknown to myself there entered into my heart at that moment a covenant with God that so long as I lived my voice should always be lifted in behalf of this outcast class, and my hand always held out to aid them.⁸¹

⁸¹ *Id.* at 154-56 (quoting *Luke* 7:44); for a somewhat different telling of the same story, see KATE WALLER BARRETT, *MATERNITY WORK: MOTHERHOOD A MEANS OF REGENERATION* 58-59 (Nat’l Florence Crittenton Mission, 1897).

“THOSE WHOM GOD HATH JOINED TOGETHER...”⁸²

Barrett is pivotal to a modern Christian history of adoption due to her firm rejection of its use to separate single mothers and their children.⁸³ Without in any way sacrificing her Christian and conventional views of sexual morality, she insisted that the verse “Those whom God hath joined together, let no man put asunder” applied to unwed mothers and their children.⁸⁴ Her viewpoint was determinative for the large group of over seventy Crittenton maternity homes, and influenced the larger group of some 200 religiously-motivated maternity homes throughout the United States.⁸⁵

Barrett’s views of the link between unwed mothers and their children had multiple components, which are outlined in her essay, “Motherhood as a Means of Regeneration.” She began ironically:

Were I going to take a text for this subject, I should take the sentence from the marriage service: “Those whom God hath joined together, let no man put asunder.” Sometimes we may have very grave doubts as to whether God has really had any part in the making of a marriage, but we cannot doubt that he joins together mother and child by the strongest of all human ties.⁸⁶

Barrett discussed the relationship between “maternity work” (assisting unwed mothers) and “rescue work” (outreach and assistance to sex workers). She argued that maternity work was a preventive form of rescue work, as the large majority of sex workers “began their downward course by being deceived, and no door being opened to them by which they could make an honest living, they fell deeper.... When we take away from a woman the chance to make an honest living, she will in most cases make a dishonest one.”⁸⁷ She noted:

It is appalling to find how often the street girl will confess to you that she has a child living in some public institution, that she consented to give it up but that she has never been happy, that her conscience has given her no peace, and being out of harmony with her surroundings she was driven to drink or drugs to drown her remorse.⁸⁸

Elsewhere, Barrett in a very similar passage also added adoption to this picture:

By experience we have found that a large percentage of the girls upon the street have, or had, a child that had been given up to some foundling asylum or else adopted. A short-sighted kindness often makes people interested in such cases take away from them the most potent instrument in their reclamation. For this reason

⁸² BARRETT, *supra* note 81, at 53 (paraphrasing *Mark* 10:9 as adapted for wedding services).

⁸³ See, e.g., AIKEN, *supra* note 19, at 59-61; BARRETT, *supra* note 81, at 52-62.

⁸⁴ AIKEN, *supra* note 19, at 59-61; BARRETT, *supra* note 81, at 52-62.

⁸⁵ BARRETT, *supra* note 81, at 60; WILSON, *supra* note 58, at 139-203.

⁸⁶ BARRETT, *supra* note 81, at 52.

⁸⁷ *Id.* at 53.

⁸⁸ *Id.* at 54.

our work does all that it can to help the mother care for her own child. We do not help her to shirk her responsibilities, but to bear them.⁸⁹

Barrett argued that it was better for the mother, the child, and society, that unwed mothers rear their own children. As to the mothers, Barrett was emphatic:

A woman who has trusted her all to one man, and been deceived, and finds herself under the ban of society, is in a deplorably lonely position. All the opportunities and most of the ties of her past life have fallen away from her. Just now she must have a new motive in life. If, in pursuing the plain path of duty, she can have a motive of love and of self-interest, as well as of duty, to give color and aim to her in life, one of the most important factors for her happiness and usefulness has been found....How often do I hear beautiful, talented girls in our Home say: "If it wasn't for my child I would not want to live, but having him, my life is full of happiness."⁹⁰

Barrett's essay also may explain why Crittenton's narrative of being saved through little Florence sometimes had a powerful impact on the street girls to whom he spoke. If, as Barrett says, a large proportion of these young women had a child they had left in an asylum or placed for adoption, and were in fact in despair at the loss of their child, such a story would have reached them at a principal source of their loss and trauma.

Barrett's explanation of why it was better for the child to remain with her mother reflected a twofold rejection of institutional care and adoption. Institutional care, she argued, "is very bad for fitting children for the battle of life":

Many of the girls that are to-day in our Florence Crittenton homes have been reared in Christian orphan asylums.... The...failure of these institutions lies in the fact that...the children are reared up into automatons instead of thinking and reasoning beings. They have had every question decided for them, and have had good forced upon them; they have not chosen it.... Their individuality is not considered. There is but little attention given to developing strength of character. They own nothing of their own, not even the toy they play with. Just at the time when they most need a watchful hand, they are turned loose....⁹¹

Barrett responds to the charge that the unwed mother is unfit by comparing her favorably to the workers in institutions:

In many instances, the persons placed in charge of children in institutions have had no children of their own, and often are not suited for the work. I have seen a child taken from a mother because it was agreed she was not competent to take charge of it, and placed in the hands of another woman who was just as incompetent to fill the requirements of a mother. The only

⁸⁹ BARRETT, *supra* note 81, at 91.

⁹⁰ BARRETT, *supra* note 81, at 54-55.

⁹¹ BARRETT, *supra* note 81, at 55-56.

difference was that the other woman was paid to do what the mother would so willingly have done for love....⁹²

THE GOSPEL FIRST, IN LIFE AND LAW

Kate Waller Barrett and Charles Crittenton demonstrated the priority of gospel in Christian social ethics. Barrett and Crittenton understood that classes of people deemed disreputable and immoral by society—sex workers, single mothers, and their children—could be in God’s eyes spiritually equal or superior to those esteemed by society. Barrett’s realization was that the single, shamed mother and child she met as a young wife were in God’s eyes no less than herself and her son, and that she and the single mother were equally mothers in God’s eyes. Crittenton’s realization was that he, as a reputable but greedy and unconverted businessperson, was in God’s eyes in the same position as an unconverted sex worker. Further, both realized the role of tragic circumstances in pushing people toward negative pathways, and the priority of love, acceptance, and assistance in providing pathways toward a better life.

These realizations did not cause Barrett or Crittenton to change their view of the moral law. Both maintained traditional Christian views of marriage and sexuality. But they realized that society was more concerned with appearance and reputation than with God and God’s children. They recognized the hypocritical manner in which some who sinned—unwed fathers, greedy businesspersons, the customers of sex workers—experienced no negative legal or societal consequences, while society piled punishments even on the completely innocent children of unmarried parents. It would be interesting to explore the gender implications of this insight, for in the patriarchal contexts of the time those stigmatized were often women, and those who escaped consequences for their actions were often men.

Barrett also realized that natural law was more fundamental than moral law. The mother-child bond was an aspect of divine and natural law, a bond intended and created by God which also was a basic aspect of human nature. Breaking the mother-child bond was a completely wrong consequence for the breach of the moral law. Indeed, violating the natural law bond between mother and child was more likely to lead to further breaches of the moral law, placing the women separated from their children on a negative life spiral.

Barrett’s insights were to be cast aside by both church and society, leading to the normalization of the separation of mother and child in the baby-scoop era. The church became complicit in aborting motherhood, with continuing negative consequences for both church and society. There may be a link between the normalization of elective abortion in American law and society since 1973,⁹³ and the church’s complicity in aborting motherhood during the baby-scoop era. Both represent a choice to separate rather than assist and to reject parenthood in less than ideal circumstances. When appearance and reputation are more important than the fundamental bonds built into human nature, there is no end to what we can justify.

⁹² *Id.* at 56.

⁹³ *Roe v. Wade*, 410 U.S. 113 (1973).

David Smolin is the Harwell G. Davis Professor of Constitutional Law, and Director, Center for Children, Law, and Ethics, at Cumberland Law School, Samford University. He has served as an independent expert for the Hague Conference on Private International Law (HCCH) on intercountry adoption issues, and has served as an external expert for the International Reference Centre for the rights of children deprived of their family, of the International Social Service ((ISS/IRC), on issues related to children's rights, adoption, and surrogacy. He is a member of the core expert group that developed the Verona Principles on international standards for surrogacy, and serves as a Special Advisor for the Swiss child rights NGO Child Identity Protection. He also serves on the Ethics Committee at Children's (Hospital) of Alabama. He teaches in the areas of constitutional law, bioethics and law, family and juvenile law, children's rights, and criminal law and procedure. Many of his publications are available for free download at http://works.bepress.com/david_smolin/, with over 80,000 downloads. He has worked together with his wife, Desiree Smolin, on analysis and reform of adoption systems and practices, and sometimes contributes to the adoption blog she co-founded: <http://fleasbiting.blogspot.com/>.