

## Morality at the Beginning of Life

This chapter is about the process of human reproduction and the moral questions that the Roman Catholic Church has brought to the process. One of the human rights that has been referred to previously is the right to be secure in one's person, that is, the right not to have one's body invaded against one's will. The most obvious violations of that right are murder and torture. There are other invasions of the body such as medical treatments or experiments that have not included the consent of the person involved. What were called the natural rights of life and liberty need more concrete descriptions to protect the person. It would be difficult to find anyone who is not in favor of life and liberty but that does not tell us much about which practices are accepted and which are condemned on the basis of proclaimed rights to life and liberty.

The Roman Catholic Church has a mixed record on these rights, like most ancient institutions. To its credit, it has slowly but determinedly moved from trying to restrain war to condemning war; from endorsing the execution of prisoners to condemning the practice; from accepting slavery to a firm opposition to all forms of human trafficking; from obliviousness about racial and gender discrimination to attempting to improve on its past record. There are understandable complaints that the church has moved too slowly compared to the society around it. But the movement has generally been one of moving from principle to behavior based on new knowledge.

What seems an exception is the church's resistance to new information about human sexuality and the choices in consequence of sexual activity, pregnancy, and birth. The human race had been amazingly limited in its knowledge of sexual practices, pregnancy, and birth. The overwhelming reason for this ignorance was the absence of a public voice for women on these matters. That has been rapidly changing worldwide. Women now speak about their own experiences and their right not to be violated. Catholic officials have lacked a knowledge of women's experience; the official teachers are all men. They even lack, at least theoretically, sexual experience.

It does not follow that church officials should have no voice on sexual matters. They are legitimately concerned that ancient principles might be swept away in the tidal wave of new information and a variety of social movements. But new information and the new assertiveness of women place a special burden on Roman Catholic officials to listen carefully. Sexual practices ranging from self-pleasuring to early abortions need to be placed in a better context than saying there is no

“lightness of matter” when sex is involved. Officials have tried to control the whole process with the one principle that human sexual practice has to be directed to procreation. Catholics have generally rejected that principle.

The bishops have in practice, if not in theory, retreated from enforcing this principle. Perhaps that is the best they can do, but in addition to being exposed as hypocritical, the bishops have left themselves with only one doctrine in this area: the condemnation of all abortions. Their overall position is self-defeating because the most effective way to reduce abortion is easy access to the means of birth control. Despite their insistence that abortion is about a right to life, it is also about sex and about the assertiveness of women to have their own experiences taken seriously.

The bishops did have grounds for skepticism about the widespread practice of abortion. The principle of nonviolence needs to be considered in abortion practice. On that basis, later abortions are a more serious moral question than early abortions. Church officials may argue that all abortions involve violence but they ought to make some distinctions about the way abortions are performed, including how far into the pregnancy the abortion occurs.<sup>1</sup> The move to recriminalize abortion or attempting to eliminate the facilities for legal abortions can have the unintended effect of increasing violence in the abortions that would continue to be performed.

When I taught ethics in undergraduate and graduate classes there was only one ethical question that I refused to discuss in class: abortion. I said that I would be glad to discuss abortion but only when the conditions would make possible a useful discussion. A classroom with several dozen students and within a time limit of less than an hour was not a place for a civil discussion on this emotion-laden topic. Unfortunately, the classroom, which should be a place for thoughtful discussion and debate, is on this issue too much like the rest of society. The first sentence about abortion that someone utters classifies him or her on one side or the other, and the discussion goes downhill from there.

Even in writing, it is difficult to get a reader to suspend temporarily his or her convictions about abortion and consider the possibility of a different perspective on the morality of abortion and what public policy should be. When on rare occasions I have spoken or written on abortion, almost the only response that I receive is the question: Are you pro-life or pro-choice? My response to the question that I am neither (or both) is taken to be a refusal to answer the only real question about abortion.

I would argue that the pre-condition for any useful discussion of abortion is a refusal to admit into the discussion the slogans of “pro-life” and “pro-choice.” Both phrases are obstacles to thinking about the history, philosophy, religion, social science, biology and anything else that might aid in an understanding of the subject. The two groups that use these slogans for political purposes do not represent most of the country.

Sometimes the public is said to be inconsistent because they hold views that cross the lines of the opposing parties. But the inconsistency more likely indicates that the two slogans are inaccurate and useless. Everybody who is not dead is in favor of life, but everybody draws distinctions about life. Everybody is in favor of choice, but everybody draws distinctions about choice. The two slogans make a discussion of abortion impossible, let alone progress in what to do about abortion.

I have never had to deal directly with abortion in my own life, something that has advantages and disadvantages in achieving an accurate view. The simple fact of being a man almost excludes one from taking part in a public discussion of abortion. I can understand why women think this way, but men do have views and men wield power in the policies on abortion. I have very slowly come to a conviction about abortion and public policy regarding it. I remain open to changes in that conviction, but I admit that my main conviction is not likely to undergo a big change.

### The Moment when Hilary Clinton lost the Election of 2016

Because abortion was surprisingly played down in the presidential election of 2016, it might seem to have been of minor importance in how the election was decided. But 81% of Evangelical Christians and 52% of Roman Catholics voted for Donald Trump, and those two groups made up 49% of the electorate. Add the fact that when these voters were asked why they would vote for someone whose views conflicted in innumerable ways with what Evangelicals and Roman Catholics each profess to believe, their most frequent answer was abortion. Donald Trump’s own view on abortion could at best be called inconsistent. But these voters were referring to who Trump would nominate for Supreme Court vacancies and the hope that a decisive vote would be added for overturning *Roe v. Wade*.

The question of abortion emerged in the presidential campaign at the final debate on Oct. 19, 2016. Chris Wallace, the questioner, first asked Trump whether he was in favor of overturning *Roe v. Wade*. As was his custom, Trump did not answer the

question directly. He did say that his nominee for the current opening on the Supreme Court would be someone who would vote to change the law and that the issue of abortion would be returned to the states. Wallace then turned to Hilary Clinton and asked “You voted against a ban on late-term partial-birth abortions. Why?” While Trump had spoken to his supporters who think that abortion should be illegal, Clinton had the opportunity to speak to the whole country or at least to the almost two-thirds of the population who support *Roe v. Wade*.

Clinton missed her opportunity. She gained applause from her most ardent supporters, but she did not win over the voters, especially Roman Catholic voters, whom she needed. She probably lost thousands not millions of votes but in our weird electoral system the election was determined by a few thousand votes in crucial places.

The strange thing about Clinton’s failure is that what she said was true enough. The transcript shows a reasonable and measured statement based on a thorough knowledge of what she was talking about. Trump used inflammatory rhetoric about something he was obviously ignorant of. But most people judged Trump to have been the winner in that exchange.

Clinton’s failure was in her tone of voice and in what she did not say. By any reasonable standard, that judgment of failure is unfair, but political debates are not scored on reason alone. Abortion is a terribly divisive issue in the country and has been for decades. Without giving an inch on the rights of women, Clinton could have acknowledged the ambivalent feelings that millions of people have about abortion – even if they support the law allowing abortion. Instead, Clinton immediately provided an explanation for why she voted against the proposed ban that Chris Wallace had referred to.

Her main failure was her willingness to answer the question as it had been asked. Wallace had introduced the misleading, and biased phrase “partial-birth abortion” which led into Trump’s inflammatory rhetoric of “ripping babies from the womb a few days before birth.” By not rejecting the phrase “partial-birth abortion,” Clinton gave the impression that she was approving what Trump was condemning.

Clinton needed to provide a bigger picture (admittedly difficult in two minutes) of when and why abortions, especially late abortions, are performed. The idea that many women are waiting until the seventh or eighth month of pregnancy for deciding that they would like to have an abortion is wildly inaccurate, but many people know only the wild rhetoric that is in much of the news media. Clinton

could have indicated how rare late-term abortions are and that they are performed only for dire reasons. Instead, people heard from her only the standard rhetoric delivered in a militant tone of voice.

Many Roman Catholics who could have been won over by Clinton were put off by her tone and her one-dimensional response. They didn't necessarily vote for Trump, but they also did not vote for Clinton. Nearly all Roman Catholics, whatever their politics, have a sacramental sense of the human life cycle. A sense of the sacredness of life means that life in all forms should be respected.

This "respect for life" can be appealed to in a defense of human rights, the protection of the environment, a condemnation of war, and opposition to the state execution of prisoners. That sensibility puts most Catholics in the liberal column, according to today's political categories. On abortion, most Catholics support the legality of abortion, but they are concerned with respecting the life-process. Interrupting that process is understood to be serious business for which serious reasons are needed.

Many Roman Catholics stand with the bishops in condemning every abortion as a murder. But there are many other church members who make some distinctions about the gravity of abortion according to the situation. Those are the people who Hillary Clinton could have won over with just a change of tone and some attention to the ambivalence that millions of people, including most Catholics, feel about abortion.

### Historical Perspective

Throughout human history there presumably have always been abortions. In the distant past there was not much conversation about the practice but also not much public disagreement either. Abortion would have been frowned upon for a variety of reasons, but it was nonetheless practiced. The disagreements would have been within families or in hidden places in society. Abortion was legal in the early part of United States history. Abortion was thought to be a problem only after "quickening" occurred, that is, when the woman was able to feel the movement of the fetus. The criterion was obviously not precise, but the judgment did depend on the pregnant woman's experience.

In the second half of the nineteenth century a change occurred with the rise of the medical profession. The professionals, who cornered the word "doctor" for

themselves, thought it was their province to control all medical procedures and they favored laws that would stop privately performed abortions.<sup>2</sup>

The physicians were joined by evangelical Protestants who were concerned that abortions by Protestant women were reducing the birth rate for Protestants while Roman Catholics were producing very large families. Protestants feared that they would be overrun by Catholics. Anti-abortion laws were therefore aimed at the Roman Catholic Church, an institution that was not very vocal on the subject.<sup>3</sup>

Despite the passage of these laws outlawing abortion, it was evident that many women were having abortions by taking toxic medicines that were sold under the pretense that these medicines had other purposes. In addition, women used home remedies for abortion, many of which were dangerous to their health. Physicians would grant permissions for “therapeutic abortions” that were judged to be necessary to the health of the mother. The system was arbitrary but rich women could usually find a physician to provide a permission for abortion; poor women continued with their home remedies. Kristin Luker, in one of the best books on the subject, notes that “neither the public nor individual physicians appear to have been very troubled by the discrepancies.”<sup>4</sup>

There are no reliable statistics on how widespread the practice of abortion was in the late nineteenth and early twentieth centuries. By the middle of the twentieth century some physicians had become uneasy about the arrangement which could put them in professional jeopardy. Some states began to legalize abortions under certain conditions.<sup>5</sup>

Many people seem to think that the Supreme Court’s *Roe v. Wade* decision in 1973 just suddenly decided to make legal what everyone had previously thought was immoral. Instead, the Court was trying to regularize a confusing situation, but it did not entirely succeed. It is not clear what people today who are opposed to the court decision think would be the result of overturning it. Do they think abortions would stop? Are they sure abortions would decrease?

### Roman Catholic Official Teaching

It is well known that the Roman Catholic Church is an unyielding opponent of abortion. At least the official doctrine of the church admits of no qualifications or grounds for compromise. The exact number of Roman Catholic women in the United States who have had abortions is impossible to determine. However, responsible surveys by the Guttmacher Institute and the Pew Research Center

estimate that almost a fourth of Catholic women have had abortions and the numbers have remained consistent.<sup>6</sup> The majority of Roman Catholics support the legality of abortion. The attitude of Catholics toward abortion differs from the general public but not so much as the bishops would like.

The Vatican document, *Declaration on Procured Abortion*, traces a consistent condemnation of abortion from the time of the *Didache* and the writings of Athenagoras and Tertullian.<sup>7</sup> But the document is misleading if not disingenuous. It mentions that “Excellent authors [none is named] allowed for this first period more lenient case solutions than they rejected for following periods.”

What is vaguely referred to here is a tradition, which is at least as old as Jerome and Augustine, which acknowledged a difference between the beginning of life and what was called *animatus*, the moment when the soul (*anima*) is infused by God.<sup>8</sup> The *Declaration* insists that “it was never denied that procured abortion even during the first days was objectively a grave fault.” That is true but it is also true that this grave fault was distinguished from homicide.

The term *animatus* was a philosophical-theological term, not a biological or empirical term. An English translation as “animation” or “quickenning” misleadingly suggests that *animatus* referred to physical movement which can be tested empirically.<sup>9</sup> Instead, the term assumed that there must be some development of the living organism before a soul could be infused. Thus, abortion, said Jerome, “is not reputed homicide until the scattered elements received their appearance and members.” Augustine agreed that for early abortions “the law does not provide that the act pertains to homicide for there cannot yet be said to be a live soul in a body that lacks sensation when it is not formed in flesh and as yet endowed with sense”<sup>10</sup>

The *Declaration* fails to point out that this distinction made by Jerome and Augustine was the main tradition throughout the Middle Ages. Gratian, whose collection of laws became the basis of the Code of Canon Law, said that abortion is not homicide until the fetus is formed.” Pope Innocent III agreed.<sup>11</sup> Perhaps most important, Thomas Aquinas had no doubt that the soul could only be infused at some point during the development of embryonic life. Roman Catholic Church officials are usually quick to invoke the authority of Thomas Aquinas but on the question of abortion they are usually silent on Thomas’ opinion, or say only what the *Declaration* does: “St. Thomas, the Common Doctor, of the church teaches that abortion is a grave sin against the natural law.”<sup>12</sup>

That statement is simply a refusal to acknowledge Thomas Aquinas's position.<sup>13</sup> Thomas was clear "that ensoulment did not take place at conception. There was sin but not the sin of destroying a man."<sup>14</sup> Thomas did not profess to be a biologist. His reflections on the human soul and the nature of the person are metaphysical in nature. His philosophical principle is not dependent on embryology. It is based on a common sense understanding that a speck of matter is not a baby.

Catholic tradition remained committed to this view of early abortion until at least the seventeenth century. When moral theology took a turn to "casuistry" and a focus on individual acts of morality, there was no room for allowing any ambiguity about the moment of "ensoulment." Since there is no clear marker during the process of pregnancy for when the human person is "formed," it was thought necessary to protect ensoulment by assuming that it could happen at any time after fertilization.

In the nineteenth and twentieth centuries there continued to be an admission that we do not know when "ensoulment" occurs. In the *Declaration on Procured Abortion*, a footnote says "This declaration leaves aside the question of the moment when the spiritual soul is infused. There is not a unanimous tradition on this point and authors are as yet in disagreement."<sup>15</sup> How can this central question be dismissed in a footnote? It is true that "authors are as yet in disagreement" about the "moment when the spiritual soul is infused" but that did not stop teachers in the past from being clear that this moment is not fertilization or the weeks immediately following.

In the anti-abortion movement since the 1970s there has been no change of opinion about ensoulment. Instead, what happened was a change of language so that the bishops speak about the beginning of life instead of the beginning of the person.

As a Roman Catholic who has been formed in my thinking by the church, I am profoundly affected by church tradition. But from the study of the past I have concluded that the Roman Catholic bishops have radically changed church teaching. I am the traditionalist on abortion agreeing with leading thinkers of the past who held that early abortions are not homicides. The bishops today are the radicals who have abandoned that position, ceding their authority to what they take to be scientific truth.

Catholic bishops and the soul



When did Roman Catholic bishops stop believing in the soul? As a child it was drummed into me that nothing was more important than my immortal soul. That drumbeat continued until the 1960s. The idea of a soul never generated much enthusiasm in me. The belief that my soul would survive my body at death and continue without a body was not an attractive proposition. Thomas Aquinas acknowledged that a soul without a body is not a person. There was the consoling fact that the soul would re-unite with a body at the general resurrection but there did not seem to be much emphasis on this belief.

The concept of a soul was one of early Christianity's many imports from Greek philosophy. Because the Bible was short on philosophical concepts, Christianity was bound to assimilate some philosophical ideas from Aristotelian, Platonic, Neoplatonic, Stoic, and other philosophies. The Bible knew nothing of a soul, but the idea did seem to support the belief that there is more to a human being than what can be seen and touched. The biblical image was one of God breathing life or spirit into each human form. The spiritual and sacred dimension of each individual human seemed captured by the concept of a soul.

The belief that every individual is composed of body and soul was always in danger of leading to a dualistic philosophy in which the soul was what was important. The body was at best an amiable companion and at worst it was a constant source of temptation to sin. Body and soul had to be integrated as dimensions of something greater. Here is where Christianity created a philosophical concept unknown to the Greeks. The concept of *person* was a brilliant invention that came from the Trinitarian and Christological controversies.

“Person” became central in the Christian attempt to speak of the divine: God is three persons and one nature. Jesus, who is called the Christ, had two natures but was only one person. Thomas Aquinas's philosophy showed the importance of person not only for theological expositions but for metaphysics and morality. Body and soul remained as dimensions of the personal but the emphasis in Thomas's philosophy is the union of body and soul rather than their conflict. According to Thomas, “Person signifies what is noblest in the whole of nature.”<sup>16</sup>

Thomas's person-centered morality is not what dominated Catholic moral thinking after the Council of Trent. Confessors were trained with manuals that catalogued sins and the seriousness of each sin. Morality became a question of how to avoid “occasions of sin.”

In the middle of the twentieth century, emphasis began shifting to a more positive approach to moral thinking. One of the important contributions to this change was Bernard Häring's three volume work, *The Law of Christ*, which turned moral theology upside down.<sup>17</sup> The law of Christ that Häring refers to is the command to love God and to love one's neighbor. Häring and other theologians made use of the work of New Testament exegetes who provided an abundance of material on the moral implications of Jesus' teaching.

New Testament scholarship also directed attention to the resurrection as central to the life of Jesus and the lives of his followers. Works such as F.X. Durwell's *Resurrection*, provided a new emphasis that the "resurrection of the body," rather than the immortality of the soul was the New Testament belief, Catholics expressed belief in the resurrection of the body each time they said the apostles' creed. The translation of the biblical doctrine as resurrection of the *body* could be misunderstood as referring to body as opposed to soul. In the biblical framework of language, the belief might be better translated as resurrection of the bodily self.

The result of these historical, biblical, and philosophical studies was a healthy emphasis on the person as the moral agent who is called to a life of justice and love, and eventually resurrection. Sin is a failure to live up to that calling but sin can be overcome by going beyond sin to a healthy unity of the whole person. For the application of moral principles there is need for an enlightened conscience and an understanding of the total situation of any moral activity. There was less talk about the soul undergoing judgment at the moment of death and more talk about the resurrection and the final judgment. This shift of emphasis from talk about saving souls to emphasis on personal-communal existence in a material world is a big improvement.

Pope Paul VI's *Humanae Vitae* forbidding contraceptives was met with loud protest because it reduced the meaning of human sexuality. Catholics who had become aware of theological and scriptural emphasis on the person opposed the encyclical precisely because it clashed with the best of Catholic moral thinking and with their knowledge of the situations in which they lived. Millions of Roman Catholics left the church; others decided to remain in the church while following their consciences on sexual matters.

The bishops decided to make an absolute stand on abortion, especially after the 1973 Supreme Court decision making abortion legal in the United States. Roman

Catholic groups immediately began mobilizing to express opposition to the Court decision.

The bishops since the 1970s seem reluctant to talk about the soul. That reluctance could have been a positive step to bringing in the scriptural studies and moral theology of the 1960s that emphasized the integrity of the person. Unfortunately, when the bishops gave up on soul talk, they switched to talking about “life.” The key question of when a new person comes into existence was left aside. The only question entertained was when does life begin.

The concept of life taken alone is one of those philosophical abstractions that the ancient Greeks were good at. Life itself doesn’t exist though what are called living beings exist. Simply saying that one is in favor of life does not offer any needed distinctions.

The questionable philosophical category of soul has been replaced by the abstraction “life.” If Roman Catholic Church leaders are not prepared to talk about the soul in the context of abortion, then they need to find other categories which retain the idea that it is the human being or the person or a bodily-spiritual individual who is being defended and not only a life process.

While people who are not Roman Catholic may have expected from Pope Francis some modification of the official church teaching on abortion, he has not suggested any change of doctrine in his comments on the issue. At a speech before an Italian anti-abortion group, Pope Francis quoted the Second Vatican Council’s words that “abortion and infanticide are unspeakable crimes.”<sup>18</sup>

When the Pope warned church officials about having too narrow a range of moral concerns, he was not playing down abortion. He wanted only to situate abortion in the context of what Cardinal Joseph Bernardine called a “consistent ethic of life.” Many Catholic groups are admirable in their opposition to all forms of violence. A group such as “Consistent Life” describes itself as part of the “anti-violence community.” Its supporters include Sister Helen Prejean who has written: “I stand morally opposed to killing: war, executions, killing of the old and demented, the killing of children, unborn and born.”<sup>19</sup> What the killing of unborn children means is part of the question.

The church officials might have expressed an opposition to abortion by saying: “We are against abortion as a violent way to control birth; other nonviolent ways of controlling birth should be encouraged as the main way to reduce abortions.”

That is not the way the ideological battle developed. Instead of saying we are against violence to living beings, especially to human beings, they announced that they were in favor of life. The question then became “when does (human) life begin?” which is not a question that needed debate.

### The Beginning of New Life

For many centuries there was an assumption that women had nothing to contribute to the process of generating a baby, except to provide a place for the man’s seed (semen), a view that some feminists call the “flower pot” theory of pregnancy. Some sects considered a man’s “spilling his seed,” the seed of life, to be equivalent to murder.

It has long been realized, however, that the woman contributes to the process of giving a new life. The clearest marker for when a new life begins is the fertilization of the egg. There is little room for debate here; the embryo is not dead, and it is not nonhuman. However, fertilization is a biological term that refers to something visible. When a human being comes into existence is a different question.

Robert George, a leading Catholic voice in opposition to abortion writes: “The facts of human embryogenesis and early development make the conclusion inescapable: from a purely biological perspective *scientists can identify the point at which a human life begins*. The relevant studies are legion. The biological facts are uncontested. The method of analysis applied to the data is universally accepted.” Those of us who have a problem with this statement are not disputing biology, but when a person comes into existence cannot be determined “from a purely biological perspective.”

George concludes: “Your life began, as did the life of every other human being when the fusion of egg and sperm produced a new, complex, living organism – an embryonic human being.”<sup>20</sup> Calling the embryo an embryonic human being does not change the fact that a speck of matter is not a baby, a child, a person.

Peter Steinfels begins a thoughtful essay on abortion with two “simple statements” His first simple statement is: “Fertilization, a remarkable process involving the union of twenty-three chromosomes from each parent, creates a new, unique, individual member of the human species, a physically dependent but genetically distinct and self-directing organism. This is a scientific fact, not one dependent on faith or religious teaching.”

Steinfels's second "simple statement" is: "The conviction taught by the Catholic Church and shared by many people, religious and nonreligious, is nowhere near as obvious as many of us who hold it suppose." That is a remarkably low-key way of admitting that not only is the conviction not obvious to most citizens but that it strikes them as wrong.

Steinfels proposes: "Catholics and others opposed to abortion should strive for the legal protection of unborn life not from conception but from that point where not one but a whole constellation of converging arguments and intuitions can be brought to bear." That point, he says is eight weeks of development when there is "an accumulation of evidence that should compel a majority even in a pluralist society."

The proposal sounds reasonable. But Steinfels is surely aware that there is nowhere near a majority who would agree to anything remotely similar. His opening statement that a unique human individual exists at fertilization kills any chance of anti-abortionists endorsing a legal approval of murder.

Steinfels, like many opponents of abortion, invokes an analogy to slavery. The comparison to slavery might be helpful to the cause of restricting late abortions. But for asserting that a fertilized ovum should have the rights of a human being the case of slavery is contrary to that position.

Aristotle thought that some men were born to be slaves; he did not think that slaves were not human beings. When Columbus encountered the Arawak or when Africans were brought to the United States to work the tobacco and cotton fields, any sane person could see that they were human beings. They were thought to be inferior to the white Europeans who were prejudiced in ways that are obvious today.

Slave holders were acutely aware that they were dealing with human beings which is why it was important to humiliate the slaves and it was illegal to teach a slave to read. Only because of a powerful ideology could anyone deny what was apparent to the senses and reason, that a slave was a human being. Those who say that in the future a fertilized egg will be recognized as a human being are on the ideological side of rejecting what the senses and reason recognize as a human being.

Church officials have ceded their authority to biology for determining when a human being comes into existence. It is strange that in this case the Roman Catholic Church chooses to rely on the data of modern science rather than draw

upon its own tradition. “Life” is a category in biology (“the science of life”). Many biologists have gladly accepted the role of declaring what life, including human life, means.<sup>21</sup>

A question that must be faced by Roman Catholics who think that a new human being exist at fertilization is: Are they ready to call tens of millions of their fellow citizens murderers?

Another question for them is do they believe that the billions of abortions that happen, most of them without external intervention, result in one-celled human beings that go to heaven and enjoy a vision of God – while awaiting the resurrection of the body?

After the bishops had decided on the strategy of condemning all abortions, they had nothing more to say. No negotiations on public policy were possible. For them abortion is an unspeakable evil and anyone who participates in it participate in a murder. Roman Catholic politicians who face complex questions of public policy are ordered to have no strategy other than to be against abortion and to oppose any legislation that tries to work out helpful compromises on abortion.

### A Strange Alliance

In a strange coalition that has continued to the present, Evangelicals have joined with the Roman Catholic Church in making abortion a top moral concern.

When *Roe v. Wade* was decided, most Southern evangelicals believed that abortion was a deeply personal issue in which government shouldn’t play a role. Some Evangelicals were hesitant to oppose abortion because they saw it as a “Catholic issue,” and worried about the influence of Roman Catholic teachings on American religious observance. It was about six years before they became convinced of the political importance of opposing abortion.

In 1971, the Southern Baptist Convention had adopted a resolution supporting legislation to “allow the possibility of abortion under such conditions as rape, incest, clear evidence of severe fetal deformity; and carefully ascertained evidence of the likelihood of damage to the emotional, mental and physical health of the mother.” A resolution in 1974 affirmed that stance as “a middle ground between the extreme of abortion on demand and the opposite extreme of all abortion as murder.”

Shortly after the decision was handed down, W. Barry Garrett in *The Baptist Press*, a wire service run by the Southern Baptist Convention, praised the ruling: “Religious liberty, human equality and justice are advanced by the Supreme Court’s abortion decision,” The essay said that religious bodies can continue to teach their own particular views to their constituents with all the vigor they desire. “People whose consciences forbid abortion are free to practice their religion according to the tenets of their personal or corporate faith.”<sup>22</sup>

By the 1980s, however, resolutions from the Baptist Convention expressed concern about “abortion on demand” and the use of taxpayer money for any abortions except to save the life of the mother. Evangelicals had emerged as a political force in the country and they had decided to make opposition to abortion a top priority.<sup>23</sup> However, they found it politically necessary to make exceptions at least for victims of rape and incest. Ronald Reagan and the National Right to Life Committee supported this distinction.

Any such exceptions, however, were illogical. If there is a baby from the moment of fertilization, then all abortions are murder. It was not until 2019 that states began passing abortion bans that had no exceptions. That change shocked many people as lacking in compassion, but groups that are opposed to abortion were finally being logical. The killing of an “unborn child” for any reason could not be justified.

In 2019 David French in the *National Review* declared that it was time “to throw down the gauntlet, declare to the world [that] the era of incrementalism is over and show that the people are ready to embrace life.”<sup>24</sup> What does “embrace life” mean? Is French ready to defend the life of every flea and cockroach? The human beings are killers, but some killings are more serious than others.

We recognize intuitively that killing a mosquito and killing an elephant cannot be judged within the same moral framework. In a few generations it is possible that our contemporary treatment of chickens, pigs and cows will be looked back upon with horror. How could human beings have slaughtered millions of their closest animal kin? However, it is not likely that humans will stop the killing of insects that spread disease and death among the human population.

Killing human life exists in a special moral universe. Cancer surgery is a justified killing of exuberant human life because the success of cancer cells is at the expense of the person. The direct killing of a human being is almost never justified although the Roman Catholic Church in the past did allow for exceptions. The

killings in “just wars,” was accepted for centuries until it was finally challenged at the Second Vatican Council. The state execution of prisoners was not directly opposed until Pope Francis proposed to change church teaching.

The killing of a human embryo is a special case because of its potential. Under the right conditions it will become a person. There must be a serious reason for interrupting the process by which a new human being comes into existence. Opponents of abortion in the past realized that rape or incest was a serious enough reason for abortion. They might have recognized that there were other reasons why women thought that an abortion was necessary. The current law is simply an acknowledgment of that fact.

Roman Catholics admirably profess belief in the equality of human beings. The church professes to be especially concerned with the most vulnerable human being whose right to exist is frequently threatened. An old person, a sick person, or a severely handicapped person still deserves the respect that is due to every person. There is no reason for the church to cease being a voice in the defense of all human beings.

### Reproductive Rights

It is unfortunate that in the United States most moral questions are argued about exclusively in the language of rights. Abortion is no exception. If one were to start, for example, with the language of responsibility (which includes rights) there would be a wider and potentially more fruitful discussion. But if we are stuck with arguing in the language of rights, it is crucial to get what is the right that is at issue.

The people who support the legality of abortion often use absolutist language. A common phrase in public discussions is “abortion rights” that makes no sense and is inflammatory. Why the term is always in the plural is a puzzle. More important, abortion is not a good which people have a right to. No young girl thinks “When I grow up, I really want to have an abortion; it is my right.”

A phrase that is used interchangeably with “abortion rights” but has a different meaning is “reproductive rights.” For its own good, society should guarantee that women have support in exercising their power to have a child or not have a child. The support of men is indispensable. But it is women who have a right to decide what happens to their bodies. The plural of “reproductive rights” makes sense here because there are several possibilities, the choice of an abortion being only one of them.



The phrase “pro-choice” is not helpful because the issue of abortion cannot be reduced to that of choice. Human choice exists in situations that lead up to the choice and produce consequences that follow from the choice. Even ardent defenders of *Roe v. Wade* admit that it was unfortunately decided on the narrow basis of a right to privacy. Abortion is a social issue involving the government, the medical profession, and the women and men who decide what happens during a woman’s pregnancy. People who talk almost exclusively about choice undermine their own case. There is a need for abortion facilities and for physicians and midwives who perform abortions.

There is no possibility of a genuine conversation between people who talk about “abortion rights” and people who accuse their opponents of murder. At present the suspicion on both sides of the public rift means that something desirable to most of the population cannot even be discussed. For example, there would likely be widespread agreement that reducing the number of abortions would be a good thing. And the conditions for that to occur are well-known, especially the ready availability of birth control devices.<sup>25</sup>

The Catholic bishops have broken with their long tradition of acknowledging a major difference between early abortions before a person exists and later abortions. By claiming that an “unborn child” exists from the moment of fertilization, they weaken their argument against late abortions. Even if the bishops continue to teach that all abortions are wrong, it still makes sense for them and for Catholic politicians to discuss improving public policy on matters of abortion.

The U.S. Supreme Court drew a line at the end of the second trimester of pregnancy for the legal acceptance of abortion. Some groups that are concerned with the moral side of abortion think that the line should be much earlier, and that late abortion should only be performed for very exceptional reasons. And in fact, an estimated 98% of abortions occur before twenty weeks; nine out of ten occur in the first twelve weeks.<sup>26</sup>

It should be possible to get agreement that an individual human being does exist when the organism is able to live outside the womb. Many state laws stipulate that abortions in the last trimester can only be performed to save the life of the mother. There are a small number of other cases when abortion should be allowed. Such is the case when the fetus will be stillborn or will exist only briefly and in pain. The operative principle here is that it is ethical to do something to lessen pain for a dying person even though the means will hasten death. Many parents face the

difficult choice of abortion as the least bad decision when birth will only bring on a brief and pain-filled life for a baby. Their grief should not be met with accusations of murder.

The Roman Catholic Church is surely right in insisting that the entire process of pregnancy should be respected. Abortion at any stage of pregnancy is a moral concern. There should be a good reason for an intrusion into the life cycle. The destruction of the human embryo for trivial reasons is surely a wrong.

The category of person is regularly used today by lawyers and psychologists for their own purposes. “Person” was and still is a philosophical category to identify a member of the human family. In Christian history, persons are created by God who placed them in a garden and told them “to dress and keep it.” A person is a responsible agent, that is, one who responds to its environment and eventually becomes morally responsible for his or her actions.

A recent political strategy has been to get “personhood” amendments on state ballots, assigning the rights of a person to the fertilized egg. The legal fiction of “personhood” was created a long time ago for corporations, such as universities. They have been considered legally as if persons because they are responsible public actors with rights and duties, but no one mistakes General Motors for a person.<sup>27</sup> Even if a fertilized egg were assigned personhood, it would still not be a person.

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<sup>1</sup> Emily Matchar, “In Liberal Europe, Abortion Laws Come with their own Restrictions,” *The Atlantic*, Aug. 5, 2013.

<sup>2</sup> Barbara Ehrenreich and Deidre English, *For Her Own Good* (New York: Anchor Books, 2005), 30.,

<sup>3</sup> Kristin Luker, *Abortion and the Politics of Motherhood* (Berkeley, CA: University of California Press, 1985), 60.

<sup>4</sup> Luker, *Abortion*, 46-47.

<sup>5</sup> For the best surveys of the practice of abortion before and after the Supreme Court decision, see: Mary Ann Glendon, *Abortion and Divorce in Western Law* (Cambridge IL: Harvard University Press, 1987), 41. Especially important of the studies she cites is: *General Social Surveys 1972-1987* (Chicago IL: National Opinion Research Center, 1987).

<sup>6</sup> Guttmacher Institute, “Characteristics of U.S. Abortion Patients in 2014 and Changes since 2008,” May 2016; Pew Research Center in 2014 found 22% of abortion patients were women and about one fourth of them married. Patrick Brown, “Catholics are just as likely to get an Abortion as other U.S. Women. Why?” *America*, Jan 24, 2018.

<sup>7</sup> Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion* (Rome: Vatican Press, 1974), section 7.

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- <sup>8</sup> John Noonan, ed., *The Morality of Abortion: An Almost Absolute Value in History* (Cambridge MA: Harvard University Press, 1970).
- <sup>9</sup> John Noonan, *An Almost Absolute*, 54.
- <sup>10</sup> Jerome, *On Ecclesiastes*, 2:5; Augustine, *De Originae animae*, 4.4.
- <sup>11</sup> *Treatise on Laws with the Ordinary Gloss* (Washington: Catholic University Press, 1993); John Noonan, *The Morality of Abortion*, 20.
- <sup>12</sup> I refer here to church officials. There is also a small industry of conservative Roman Catholic philosophers and theologians dedicated to reconciling Thomas Aquinas with current church teaching on abortion. A good example is Germain Grisez, *Abortion: The Myths, the Realities and the Arguments* (Washington DC: Corpus Books, 1970). For a list of such works, see John Haldane and Patrick Lee, "Aquinas on Human Ensoulment, Abortion and the Value of Life," *Philosophy*, 78(2003), footnote 5.
- <sup>13</sup> For a careful study of Thomas Aquinas's texts, see Fabrizio Amerini, *Aquinas on the Beginning and End of Life* (Cambridge, MA: Harvard University Press, 2013), especially chapter 5.
- <sup>14</sup> John Noonan, *The Morality of Abortion*, 23
- <sup>15</sup> Congregation for the Doctrine of the Faith, *Declaration on Procured Abortions*, Footnote 19.
- <sup>16</sup> Thomas Aquinas, *Summa theologiae*, Ia, q. 19, art 2: "Person signifies what is noblest in the whole of nature."
- <sup>17</sup> Bernard Häring, *The Law of Christ* (Westminster, MD: Newman Press, 1963).
- <sup>18</sup> "Pope Francis Broaches a Rare Topic: Abortion," *National Catholic Reporter*, May 9, 2014, 11.
- <sup>19</sup> Kelefa Sanneh, "The Intensity Gap," *the New Yorker*, October 27, 2014, 39.
- <sup>20</sup> Robert George, *Conscience and its Enemies: Confronting the Dogmas of Secular Liberalism* (Wilmington, DE: Intercollegiate Studies Institute, 2016)
- <sup>21</sup> Edward O. Wilson, *The Meaning of Human Existence* (New York: Liveright, 2014) is an example of a leading biologist declaring what human existence means. Not surprisingly, religious questions are simply unintelligible to him.
- <sup>22</sup> W. Barry Garrett, "High Court holds Abortion to be a 'Right of privacy'," *Baptist Press*, Jan. 31, 1973.
- <sup>23</sup> Randall Balmer, "The Real Origin of the Religious Right," *Politico*, May 27, 2014.
- <sup>24</sup> David French, *National Review*, March, 2019.
- <sup>25</sup> The World Health Organization estimates that 80% of women having abortion do not have ready access to contraceptives. See: *Lancet*, May, 2016.
- <sup>26</sup> The statistics are from the Alan Guttmacher Institute: *Abortion and Women's Health: A Turning Point for America* (New York: Guttmacher Institute, 1990).
- <sup>27</sup> The U.S. Supreme Court has been ridiculed for saying that corporations are people. The Court was not inventing the idea. The blind spot in the *Citizens United v. Federal Elections Commission* decision was not to recognize that the money of (artificial) persons can overwhelm the political process.