

## The Catholic Church and Abortion Gabriel Moran

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 Catholic women who have had abortions is impossible to determine. The attitude of Catholics toward abortion is different from the general public but not as much as bishops would like.

While people who are not Catholic may be expecting some modification of the church's position by the present pope, he has not suggested any change of doctrine in his direct 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."

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>1</sup> Much of the anti-abortion movement, however, neglects the factors that contribute to abortion and seems less interested in the destruction of life outside the womb.

In the 1970s Roman Catholic Church officials emerged as leaders in denouncing abortion. Those officials had recently lost their fight over what were called "artificial contraceptives." To this day, some church officials have not accepted that defeat. Impartial observers and most Roman Catholics understand the battle to have ended in 1968 with Pope Paul VI's incoherent encyclical, *Humani Vitae*. Most Roman Catholics either opted out of the church or decided that on this point the bishops simply did not know what they were talking about.<sup>2</sup>

Roman Catholic Church officials, it seems clear, saw abortion as the fallback position on contraception; that was a terrible way to approach the question. They might have made a connection by saying: "We are against abortion as a violent way to control birth; other nonviolent ways of controlling birth should be encouraged as the most direct 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 the question that was in need of debate.

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. Some sects considered a man's "spilling his seed," the seed of life, to be equivalent to murder. The

Catholic Church did not make that equivalence but some preachers and schoolteachers came close to that position in their passionate denunciation of masturbation. The Vatican condemnation of homosexual acts in 1975 has an extended discussion of masturbation as “an intrinsically and seriously disordered act.” Each act of masturbation can be a mortal sin “because it contradicts the finality of the faculty.”<sup>3</sup> The logic of that teaching follows from the assumption that the purpose of sex is the generation of children. Any interruption of the process of the seed of life leading to pregnancy and birth is a serious sin.

Now that everyone recognizes that the woman contributes to the process of giving life, the clearest marker for when a new human 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. Conception is a philosophical term about a human being. The human race now knows important scientific facts about genetics and that a DNA profile is established at the start of the process. But it is not a scientific question to ask when an individual human being comes into existence; it is a philosophical question, and one that has no agreed upon answer today and it is unlikely that there will ever be an agreement.

The interesting development in recent decades is that the opponents of abortion have called upon modern science and technology to support their case. By accepting fertilization and conception as synonymous, church officials cede 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 accept the judgment 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>4</sup>

It is also interesting that anti-abortion literature does not say much about the soul. Throughout most of Catholic Church history a key question was when does God infuse the soul. Not so long ago church leaders talked constantly about taking care of one’s immortal soul. During the past half century, there has been a shift of emphasis. A greater prominence of scriptural categories has led to a healthier view of personal integrity as the basis of Christian life. There has been less talk about the soul undergoing judgment at the moment of death and more talk about the resurrection and the final judgment.<sup>5</sup>

This shift of emphasis from a soul encased in a body to personal-communal existence in a material world represents a big improvement. But shifting from “soul” to “life” is not the same kind of progress. A questionable philosophical category has been replaced by an abstraction. If Catholic Church leaders are not prepared to talk about the soul 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. Do those who say that a human being exists at fertilization believe that the billions of abortions that happen, even 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)?

The Roman Catholic Church's position is truly tragic. It has a legitimate moral concern in criticizing the widespread practice of abortion. But church officials seem to have lost the power to make distinctions, something that had been a hallmark of Catholic tradition. Perhaps many people who are called conservative do not know the tradition very well. On abortion, there is a distinction that goes back at least to the fourth century that would open the door to compromise on public policy. In a discussion of abortion there is surely a need to distinguish between the first month and the last month of pregnancy.

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>6</sup> It does mention 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, at least as old as Jerome and Augustine, that acknowledged a difference between the beginning of life and what was called *animatus*, the moment when the soul (*anima*) is infused by God.<sup>7</sup> The *Declaration* insists that "it was never denied that procured abortion even during the first days was objectively a grave fault." That may be true but what is certain is that early abortion was distinguished from homicide.

The term *animatus* was a philosophical-theological term, not a biological term. The English word animation and the later word "quicken" misleadingly suggest that *animatus* referred to physical movement which can be tested empirically. Instead, there was an assumption that there has to be some development of the living organism before a soul was 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>8</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 homicide only when the fetus is formed. Pope Innocent III agreed.<sup>9</sup> Perhaps most important, Thomas Aquinas had no doubt that the soul could be infused only at some point along 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 often 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>10</sup>

That is simply a refusal to acknowledge Thomas Aquinas' position.<sup>11</sup> Thomas was clear in asserting that a development was needed before there could be the infusion of a soul, forty days for a male and eighty days for a female. That distinction between the sexes is indicative that his views were entangled with a primitive (and anti-woman) biological theory that he adopted from Aristotle. 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 a baby” does not parse in any language.

Catholic tradition remained committed to this view of early abortion until at least the seventeenth century. When moral theology took a turn into “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 marker later in the process of pregnancy for when the human person is “formed,” it was thought necessary to assume that ensoulment happened at fertilization.

Even 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>12</sup> In the anti-abortion movement since the 1970s there was not a change of opinion about ensoulment; instead there was a change of language to speak about the beginning of life.

In the Middle Ages, there was no agreement on how long it was after the beginning of life that an individual – an ensouled person – came into existence. The suggestion of some authors, including Thomas Aquinas, of forty days was no doubt a symbolic number. But now as well as then no one can say when a person or individual human being comes into existence. Historian John Noonan subtitled his important study of abortion *An Almost Absolute Value*. All that is needed for the Roman Catholic Church to begin a conversation on abortion is a recognition that “almost absolute” is not absolute.

The U.S. Supreme Court drew a line at the end of the second trimester of pregnancy for the legal acceptance of abortion. As a line that seemed legally enforceable, the Court acted reasonably. Groups that are concerned with the moral side of abortion understandably think that the *moral* 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>13</sup> The people who urge that the Supreme Court’s legal line should be moved forward might better concern themselves with changing the conditions that lead to late abortions. Perhaps twenty-weeks would have originally been a better choice by the Court but the current rash of bills to set a twenty-week limit is not straightforward and worsens the conflict between the two ideological groups.

The proposal of a legal limit of twenty weeks is being used as a distraction from other provisions in these laws which are intended to make abortion less accessible. One does not have to deduce the intent behind these laws; it is openly admitted by advocates of the laws. The twenty-week provision is meant to be a step toward outlawing all abortions. The chances of that happening are approximately zero. Meanwhile, any helpful provisions to lessen the need for abortion and to make safe abortions available to the poor as well as the rich are lost in the ideological battle.

It should be possible to get agreement that an individual human being does exist when the organism is capable of living outside the womb. Despite changes brought about by medical advances this principle of viability still holds. Most people think that a human being exists before then. One would think that some agreements about late abortions should be possible but there is such mistrust of opposing groups that no conversation takes place.

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. Violent intrusions into the life cycle should if possible be avoided. There should be a good reason for an intrusion. Even if there is some moral fault the degree of culpability varies according to all the circumstances. The destruction of the human embryo for trivial reasons is surely a wrong. But to accuse people of murder because of an abortion at the earliest stage of pregnancy is not a way to begin a conversation.

Paul Griffiths, who is a thoughtful Roman Catholic writer, wrote an essay in 2004 advocating church acceptance of same-sex marriage. In that essay he contrasts the acceptance of gay unions with an opposition to abortion: “The current state of U.S. law about abortion makes impossible the legal restriction of the slaughter of more than a million innocent human beings every year.”<sup>14</sup> That is a stunning charge based on a counter-intuitive belief which is rejected by tens of millions of responsible citizens. To the vast majority of people the charge makes no sense at all. It is unintelligible to most people to say that an individual – a person, a human being, a baby, a being, a someone, a who – exists at fertilization. Griffiths’ language is standard in the anti-abortion movement and makes any kind of compromise impossible.

A thoughtful essay by Peter Steinfels brings a tone of civility to the disagreement and deserves careful consideration.<sup>15</sup> Steinfels is a committed Roman Catholic who is looking for any possible compromise. He begins with what he describes as 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.” It seems to me a claim that fertilization “creates a new, unique, individual member of the human species” is far from being a scientific fact. The paradox is that if this assertion were scientific fact, wouldn’t the secular critics of the church know that fact instead of that fact being obvious only to opponents of abortion?

Steinfels’ 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 into admitting that the conviction is not only not obvious to the great majority of citizens but strikes them as wrong.

Steinfels lays out errors and dangers in the way anti-abortion forces have proceeded, for example, being aligned with reactionary political movements that downgrade the rights of

women. He finally comes to his proposal: “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 does sound reasonable. If we were starting with a clean slate, perhaps there could be an agreement closer to eight weeks than the Supreme Court’s twenty-four. But Steinfels is surely aware that there is nowhere near a majority who would agree to anything remotely similar. And his opening statement that a unique human individual exists at fertilization kills any chance of anti-abortionists endorsing a legal approval of murder. Although Steinfels’ proposal cannot get far, his willingness to propose a compromise is a good step.

Steinfels criticizes opposition to abortion by drawing 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 evidence against the 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 in 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 on the basis 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.

A recent political strategy has been to get “personhood” amendments on state ballots, assigning the rights of a person to the fertilized egg. These amendments do not have wide support; most people recognize that a one-celled embryo is not a person. The idea of “person” emerged from early Christian speculation on God and the relation of Jesus to God. It became the way to refer to what is special about the human being, a responsible agent with rights and duties. For Thomas Aquinas “person signifies what is noblest in the whole of nature.”<sup>16</sup> A legal concept of “personhood” has been extended to a wide range of things. Corporations have long been considered legal persons because they are responsible public actors with rights and duties but no one mistakes General Motors for a (natural) person.<sup>17</sup> Even if a fertilized egg were assigned personhood, it would still not be a natural person.

We who are persons can usually recognize others of our kind. We do it on the evidence of our senses and what the mind conceives. There are dozens of signs of personhood in what we can see, hear and touch. At some point in the development of human life during

pregnancy there exists a combination of characteristics and behavior that are identified with persons. No single characteristic, such as conscious awareness or the ability to feel pain, is persuasive to everyone.<sup>18</sup> Exactly when the person exists will never be agreed upon.

## Conclusion

Catholic tradition has a good, though by no means spotless, record of concern for vulnerable human beings. In many ways it continues to be a voice for the downtrodden. Abortion as routinely practiced today is worthy of the church's concern. But a "respect for life" surely includes protests against poverty, the state execution of prisoners, and the militarization of the country. Even Pope Francis, as noted above, suggested that an obsession with abortion may prevent church officials from using the resources of Catholic tradition to stand on the side of oppressed people and to speak out against violations of the human body and the destruction of the physical environment.

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<sup>1</sup> Kelefa Sanneh, "The Intensity Gap," *the New Yorker*, October 27, 2014, 39.

<sup>2</sup> A helpful narrative on this period is Patricia Miller, *Good Catholics: The Battle over Abortion in the Catholic Church* (Berkeley: University of California Press, 2014).

<sup>3</sup> Congregation for the Doctrine of the Faith, *Declaration on Certain Questions concerning Sexual Ethics* (Rome: Vatican Press, 1975), sections IX and X.

<sup>4</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.

<sup>5</sup> A key moment in this shift was a book by Oscar Cullmann, *Resurrection or Immortality* (New York: Macmillan, 1968) which opposed the idea of soul. Catholics were not likely to go that far but starting with F.X. Durwell, *The Resurrection* (New York: Sheed and Ward, 1963), the Catholic Church joined in emphasizing resurrection as the authentic Christian doctrine.

<sup>6</sup> Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion* (Rome: Vatican Press, 1974), section 7.

<sup>7</sup> John Noonan, ed., *The Morality of Abortion: An Almost Absolute Value in History* (Cambridge: Harvard University Press, 1970).

<sup>8</sup> Jerome, *On Ecclesiastes*, 2:5; Augustine, *De Originæ animæ*, 4.4.

<sup>9</sup> John Noonan, *The Morality of Abortion*, 20.

<sup>10</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: 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>11</sup> For a careful study of Thomas Aquinas' texts, see Fabrizio Amerini, *Aquinas on the Beginning and End of Life* (Cambridge: Harvard University Press, 2013), especially chapter 5.

<sup>12</sup> Footnote 19.

<sup>13</sup> The statistics are from the Guttmacher Institute which has done extensive study of the question.

<sup>14</sup> Paul Griffiths, "Legalize Same-Sex Marriage," *Commonweal*, June 28, 2004.

<sup>15</sup> Peter Steinfels, "Beyond the Stalemate: Forty years after 'Roe'," *Commonweal*, July 14, 2013.

<sup>16</sup> *Summa Theologiae*, Ia, xxix. 2

<sup>17</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.

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<sup>18</sup> Christopher Kaczor, *The Ethics of Abortion: Women's Rights, Human Life and the Question of Abortion* (New York: Routledge, 2010)