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Abortion: A Question of Catholic Honesty

In the 'already but not yet' of Christian existence, members of the church choose different paths to move toward the realization of the kingdom in history. Distinct moral options coexist as legitimate expressions of Christian choice." This "prochoice" statement recently made by the Catholic bishops of the United States has nothing to do with abortion. Rather, it addresses the possibility of ending life on earth through nuclear war. On that cataclysmic issue, the bishops' pastoral letter on peace warns against giving "a simple answer to complex questions." It calls for "dialogue." Hand-wringingly sensitive to divergent views, the bishops give all sides a hearing, even the winnable nuclear war hypothesis—a position they themselves find abhorrent. At times they merely raise questions when, given their own views, they might well have roundly condemned.

Change the topic to abortion, and nothing is the same. On this issue, the bishops move from the theological mainstream to the radical religious right. Here they have only a single word to offer us: No! No abortion ever—yesterday, today or tomorrow. No conceivable tragic complexity could ever make abortion moral. Here the eschaton is reached: there is no "already but not yet"; there is only "already." "Distinct moral options" do not exist; only unqualified opposition to all abortions moves toward "the realization of the kingdom in history." There is no need for dialogue with those who hold other views or with women who have faced abortion decisions. Indeed, as Marquette University theologian Dennis Doherty wrote some years ago, there seems to be no need even for prayer, since no further illumination, divine or otherwise, is anticipated.

Here we have no first, second, third and fourth drafts, no quibbles over "curbing" or "halting." Here we have only "a simple answer to complex questions." The fact that most Catholics, Protestants and Jews disagree with this unnuanced absolutism is irrelevant. The moral position of those who hold that not every abortion is murder is treated as worthless. Moreover, the bishops would outlaw all disagreement with their view if they could, whether by way of the Buckley-Hatfield amendment, the Helms-Hyde bill, or the Hatch amendment.

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As a Catholic theologian, I find this situation abhorrent and unworthy of the richness of the Roman Catholic traditions that have nourished me. I indict not only the bishops, but also the "petulant silence" (Beverly Harrison's phrase) or indifference of many Catholic theologians who recognize the morality of certain abortions, but will not address the subject publicly. I indict also the male-dominated liberal Catholic press which does too little to dissipate the myth of a Catholic monolith on abortion. It is a theological fact of life that there is no *one* normative Catholic position on abortion. The truth is insufficiently known in the American polity because it is insufficiently acknowledged by American Catholic voices.

This misconception leads not only to injustice but to civil threat, since non-Catholic as well as Catholic citizens are affected by it. The erroneous belief that the Catholic quarter of the American citizenry unanimously opposes all abortions influences legislative and judicial decisions, including specific choices such as denying abortion funding for poor women. The general public is also affected in those communities where Catholic hospitals are the only health care facilities. The reproductive rights of people living in such communities are curtailed if (as in common) their hospital is administratively locked into the ultraconservative view on abortion, and even on such reproductive issues as tubal ligation and contraception. Physicians practicing at such hospitals are compromised. Academic freedom is frequently inhibited at Catholic universities and colleges—public agencies that often are federal contractors—with consequent injustice to the students and to the taxpayers. (In the face of all of this, non-Catholic citizens have been surprisingly and—I dare aver—uncourageously polite.)

Ten years ago, Catholic theologian Charles E. Curran stated in the *Jurist* (32:183 [1973]) that "there is a sizable and growing number of Catholic theologians who do disagree with some aspects of the officially proposed Catholic teaching that direct abortion from the time of conception is always wrong." That "sizable number" has been growing since then despite the inhibiting atmosphere. It is safe to say that only a minority of Catholic theologians would argue that all abortions are immoral, though many will not touch the subject for fear of losing their academic positions. (As one woman professor at a large eastern Catholic university said, "I could announce that I had become a communist without causing a stir, but if I defended *Roe v. Wade* [the 1973 Supreme Court decision legalizing abortion in the United States], I would not get tenure.")

To many, the expression "Catholic pluralism" sounds like a contradiction in terms. The Catholic system, however, does have a method for ensuring a liberal pluralism in moral matters: a system called "probabilism." While it is virtually unknown to most Catholics, probabilism became standard equipment in Catholic moral theology during the 17th century. It applies to situations where a rigorous consensus breaks down and people begin to ask when they may in good conscience act on the liberal dissenting view—precisely the situation with regard to abortion today.

Probabilism was based on the insight that a doubtful moral obligation may not be imposed as though it were certain. "Where there is doubt, there is

freedom" (*Ubi dubium, ibi libertas*) was its cardinal principle. It gave Catholics the right to dissent from hierarchical church teaching on a moral matter, if they could achieve "solid probability," a technical term. Solid probability could come about in two ways: *intrinsically,* in a do-it-yourself fashion, when a person prayerfully discovered in his or her conscience "cogent," nonfrivolous reasons for dissenting from the hierarchically supported view; or *extrinsically,* when "five or six" theologians of stature held the liberal dissenting view, even though all other Catholic theologians, including the pope, disagreed. Church discipline required priest confessors who knew that a probable opinion existed to so advise persons in confession even if they themselves disagreed with it.

In a very traditional book, *Moral and Pastoral Theology,* written 50 years ago for the training of seminarians, Henry Davis, S.J., touched on the wisdom of probabilism by admitting that since "we cannot always get metaphysical certainty" in moral matters, we must settle for consenting "freely and reasonably, to sufficiently cogent reasons."

Three things are noteworthy about probabilism: (1) a probable opinion which allows dissent from the hierarchically maintained rigorous view is entirely based on *insight*—one's own or that of at least five or six experts. It is not based on permissions, and it cannot be forbidden. (2) No moral debate—and that includes the abortion debate—is beyond the scope of a probabilistic solution. To quote Father Davis again: "It is the merit of Probabilism that there are no exceptions whatever to its application: once given a really probable reason for the lawfulness of an action in a particular case, though contrary reasons may be stronger, there are no occasions on which I may not act in accordance with the good probable reason that I have found." (3) Probabilism is theologically deep, going back to John and Paul's scriptural teaching that Spirit-filled persons are "taught of God," and to Thomas Aquinas's doctrine that the primary law for the believer is the grace of the Holy Spirit poured into the heart, while all written law—including even Scripture, as well as the teachings of the popes and councils—is secondary. Probabilism allows one to dissent from the secondary through appeal to the primary teaching of the Spirit of God. It is dangerous, of course, but it is also biblical and thoroughly Catholic.

There are far more than five or six Catholic theologians today who approve abortions under a range of circumstances, and there are many spiritual and good people who find "cogent," nonfrivolous reasons to disagree with the hierarchy's absolutism on this issue. This makes their disagreement a "solidly probable" and thoroughly respectable Catholic viewpoint. Abortion is always tragic, but the tragedy of abortion is not always immoral.

Teilhard de Chardin, S.J., pointed out that nothing is intelligible outside of its history. I would add that no conclusion is intelligible unless one knows the history and method of thought that produced it, since moral opinions do not pop out of a void. Whence the moral taboo on all abortions?

The Bible does not forbid abortion. Rather, the prohibition came from theological and biological views that were seriously deficient in a number of ways and that have been largely abandoned. There are at least nine reasons why the old taboo has lost its footing in today's Catholic moral theology. In a 1970 article "A Protestant Ethical Approach," in *The Morality of Abortion* (with which few

Catholic theologians would quarrel), Protestant theologian James Gustafson pointed out five of the foundational defects in the traditional Catholic arguments against all abortions: (1) These arguments relied on "an external judge" who would paternalistically "claim the right to judge the past actions of others as morally right or wrong," with insufficient concern for the experience of and impact on mothers, physicians, families and society. (2) The old arguments were heavily "juridical," and, as such, marked by "a low tolerance for moral ambiguity." (3) The traditional arguments were excessively "physical" in focus, with insufficient attention to "other aspects of human life." (I would add that the tradition did not have the advantage of modern efforts to define personhood more relationally. The definition of person is obviously central to the abortion question.) (4) The arguments were "rationalistic," with necessary nuances "squeezed out" by "timeless abstractions" which took the traditional Catholic reasoning "far from life." (5) The arguments were naturalistic and did not put "the great themes of the Christian faith at a more central place in the discussion." It would be possible to parallel Gustafson's fair and careful criticisms with exhortations from the Second Vatican Council, which urged correctives in precisely these areas.

Other criticisms can be added to Gustafson's list: (6) The theology that produced the traditional ban on all abortions was not ecumenically sensitive. The witness of Protestant Christians was, to say the least, underesteemed. Vatican II condemned such an approach and insisted that Protestants are "joined with us in the Holy Spirit, for to them also He gives His gifts and graces, and is thereby operative among them with His sanctifying power." The bishops and others who condemn all abortion *tout court* should show some honest readiness to listen in the halls of conscience to Protestant views on abortion before they try to outlaw them in the halls of Congress.

(7) Furthermore, the old theology of abortion proceeded from a primitive knowledge of biology. The ovum was not discovered until the 19th century. Because modern embryology was unknown to the tradition, the traditional arguments were spawned in ignorance of such things as twinning and recombination in primitive fetal tissue and of the development of the cortex.

On the other hand, the teachings about abortion contained some remarkable scientific premonitions, including the insight that the early fetus could not have personal status. Said St. Augustine: "The law does not provide that the act [abortion] 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 so is not endowed with sense." As Joseph Donceel, S.J., notes, up until the end of the 18th century "the law of the Roman Catholic Church forbade one to baptize an aborted fetus that showed no human shape or outline." If it were a personal human being, it would deserve baptism. On the question of a rational soul entering the fetus, Donceel notes that Thomas Aquinas "spoke of six weeks for the male embryo and three months for the female embryo." In Aquinas's hylomorphic theory, the *matter* had to be ready to receive the appropriate *form*. According to such principles, as Rosemary Ruether points out, "Thomas Aquinas might well have had to place the point of human ensoulment in the last trimester if he had been acquainted with modern embryology."

If the bishops and other negative absolutists would speak of tradition, let them speak of it in its full ambiguity and subtlety, instead of acting as though the tradition were a simplistic, Platonic negative floating through time untouched by contradiction, nuance or complexity.

(8) Vatican II urged priests and church officers to have "continuous dialogue with the laity." The arguments prohibiting all abortion did not grow out of such dialogue, nor are the bishops in dialogue today. If they were, they would find that few are dancing to the episcopal piping. A November 1982 Yankelovich poll of Catholic women shows that fewer than one-fifth would call abortion morally wrong if a woman has been raped, if her health is at risk, or if she is carrying a genetically damaged fetus. Only 27 per cent judge abortion as wrong when a physically handicapped woman becomes pregnant. A majority of Catholic women would allow a teen-ager, a welfare mother who can't work, or a married woman who already has a large family to have an abortion.

Since the tradition has been shaped by the inseminators of the species (all Catholic theologians, priests and bishops have been men), is the implication that there is no value in the witness of the bearers? Why has all authority on this issue been assumed by men, who have not been assigned by biology to bear children or by history to rear them? Are the Catholic women who disagree with the bishops all weak-minded or evil? Is it possible that not a single Catholic bishop can see any ambiguity in any abortion decision? The bishops are not unsubtle or unintelligent, and their pastoral letter on peace shows a surefooted approach to complexity. Their apparent 100 per cent unanimity against all abortion is neither admirable nor even plausible. It seems, rather, imposed.

(9) This leads to the question of sin and sexism. Beverly Harrison (professor of Christian ethics at Union Theological Seminary in New York) charges that "much discussion of abortion betrays the heavy hand of the hatred of women." Are the negative absolutists sinlessly immune to that criticism? Since the so-called "prolife" movement is not dominated by vegetarian pacifists who find even nonpersonal life sacred, is the "prolife" fetal fixation innocent? Does it not make the fertilized egg the legal and moral peer of a woman? Indeed, in the moral calculus of those who oppose all abortion, does not the *potential* person outweigh the *actual* person of the woman? Why is the intense concern over the 1.5 million abortions not matched by an equal concern over the male-related causes of those 1.5 million unwanted pregnancies? Has the abortion ban been miraculously immune to the sexism rife in Christian history?

Feminist scholars have documented the long record of men's efforts to control the sexuality and reproductivity of women. Laws showcase our biases. Is there no sexist bias in the new Catholic Code of Canon Law? Is the code *for* life or *against* women's control of their reproductivity? After all, canon law excommunicates a person for aborting a fertilized egg, but not for killing a baby after birth. One senses here an agenda other than the simple concern for life. What obsessions are operating? A person could push the nuclear button and blow the ozone lid off the earth or assassinate the president (but not the pope) without being excommunicated. But aborting a five-week-old precerebrate, prepersonal fetus would excommunicate him or her. May we uncritically

allow such an embarrassing position to posture as "prolife"? Does it not assume that women cannot be trusted to make honorable decisions, and that only male-made laws and male-controlled funding can make women responsible and moral about their reproductivity?

The moral dilemma of choosing whether to have an abortion faces only some women between their teens and their 40s. The self-styled "prolife" movement is made up mainly of men and postfertile women. Is there nothing suspicious about passionately locating one's orthodoxy in an area where one will never be personally challenged or inconvenienced?

Prohibition was wrong because it attempted to impose a private moral position on a pluralistic society. The prohibition of abortion is wrong for the same reason. Society must allow for the debate of valid issues, and then for freedom of choice, not coercion. Some moral positions are not within the pale of respectability, and we properly use coercion to prohibit them. Refusing to educate children, denying sick children blood transfusions, keeping snakes in a church for faith-testing are not respectable options, and we forbid them. But most abortions are not in that category. Abortion is an issue deserving respectable debate.

A moral opinion merits respectable debate if it is supported by serious reasons which commend themselves to many people and if it has been endorsed by a number of reputable religious or other humanitarian bodies. Note the two requirements: *good reasons* and *reliable authorities.* The principle of respectable debate is based on some confidence in the capacity of free minds to come to the truth, and on a distrust of authoritarian short-cuts to consensus and uniformity. This principle is integral to American political thought and to the Catholic doctrine of probabilism. On the other hand, prohibition represents a despairing effort to compel those whom one cannot convince; it can only raise new and unnecessary doubts about Catholic compatibility with democratic political life.

But what of legislators who personally believe that all abortion is wrong? Those legislators must recognize that it is not their function to impose their own private moral beliefs on a pluralistic society. St. Augustine and St. Thomas Aguinas both found prostitution morally repugnant, but felt that it should be legalized for the greater good of the society. St. Thomas wryly but wisely suggested that a good legislator should imitate God, who could eliminate certain evils but does not do so for the sake of the greater good. The greater good supported by the principle of respectable debate is the good of a free society where conscience is not unduly constrained on complex matters where good persons disagree. Thus a Catholic legislator who judges all abortions to be immoral may in good conscience support the decisions of *Roe v. Wade,* since that ruling is permissive rather than coercive. It forces no one to have an abortion, while it respects the moral freedom of those who judge some abortions to be moral.

Good government insists that essential freedoms be denied to no one. Essential freedoms concern basic goods such as the right to marry, the right to a trial by jury, the right to vote, the right to some education and the right to bear *or not to bear* children. The right not to bear children includes abortion as a means of last resort. Concerning such goods, government should not act to limit freedom along income lines, and should ensure that poverty takes no essential

freedoms from any citizen. Furthermore, the denial of abortion funding to poor women is not a neutral stance, but a natalist one. The government takes sides on the abortion debate by continuing to pay for births while denying poor women funds for the abortion alternative that is available to the rich. Funding cutbacks are also forcing many to have later abortions, since they have to spend some months scraping up the funds denied them by the government. The denial of funding is an elitist denial of moral freedom to the poor and a stimulus for later or unsafe abortions.

Abortion has become the Catholic orthodoxy's stakeout. In January 1983, California Bishop Joseph Madera threatened excommunication for "lawmakers who support the effective ejection from the womb of an unviable fetus." (His warning also extended to "owners and managers of drugstores" where abortion-related materials are sold.) In a bypass of due process, Sister Agnes Mary Mansour was pressured out of her identity as a Sister of Mercy because her work for the poor of Michigan involved some funding for abortions. Despite his distinguished record in working for justice and peace, Robert Drinan, S.J., was ordered out of politics by the most politically involved pope of recent memory. I am not alone in seeing a link between this and the antecedent right-wing furor over Father Drinan's position on abortion funding. The 4,000 Sisters of Mercy (who operate the second-largest hospital system in the U.S., after the Veterans Administration) were ordered, under threat of ecclesiastical penalties, to abandon their plan to permit tubal ligations in their hospitals. A Washington, D.C., group called Catholics for Free Choice had its paid advertisements turned down by *Commonweal,* the *National Catholic Reporter* and *America.* This group is not promoting abortions, but simply honestly acknowledging Catholic pluralism on the issue. (Interestingly, the only "secular" magazine to refuse their advertisement was the *National Review.*) In June 1983, Lynn Hilliard, a part-time nurse in a Winnipeg, Manitoba, clinic where abortions are performed, had her planned marriage in a Catholic parish peremptorily canceled by Archbishop Adam Exner two weeks before the event, even though the archbishop admitted he did not know whether Ms. Hilliard was formally responsible for any abortions. In the face of all this injustice, Catholic theologians remain remarkably silent; they exhibit no signs of anger. Seven hundred years ago, Thomas Aquinas lamented that we had no name for the virtue of anger in our religious lexicon. He quoted the words of St. John Chrysostom, words that are still pertinent today: "Whoever is without anger, when there is cause for anger, sins."

POSTSCRIPT

Is Abortion Wrong?

Although both the Hebrew Bible and the Christian New Testament speak of the shedding of "innocent blood" as a sin (King James Version, Deut. 19:10 and Matt. 27:4) and contain the command "thou shalt not kill" (KJV, Exod. 20:13 and Rom. 13:9), there is controversy over whether or not the Bible specifically forbids abortion. One of the oft-debated verses is found in the words of the Hebrew prophet Moses:

> If men strive, and hurt a woman with child, so that her fruit depart *from her*, and yet no mischief follow: he shall be surely punished, according as the woman's husband will lay upon him; and he shall pay as the judges *determine*. And if *any* mischief follow, then thou shalt give life for life.
>
> — KJV, Exod 21:22–23; italics added

It is clear that if someone caused a miscarriage, a fine was imposed. If a person caused a miscarriage and death resulted, the perpetrator had to give up his life. The controversy comes in determining whose death the guilty person is paying for. Is the death penalty imposed because of the death of the mother, the infant, or both?

The same question appears in the Qur'an as well. While Islamic texts speak of life as sacred and contain many statements against murder, it can be debated whether or not abortion is specifically addressed.

Most statements on abortion from religious leaders are found in writings outside of Scripture. What follows are statements from a variety of religious traditions that represent the diversity of opinion that exists.

Though Buddhists have a fairly clear orientation against abortion and for protecting the life of the unborn child for members of their own faith, they take a pluralistic position toward the religious beliefs of others. Buddhism is particularly open to individuals making their own decisions based on their own circumstances. The XIV Dalai Lama, leader of the Tibetan Vajrayana branch of Buddhism, is quoted by T. Gyasto in "Kindness, Clarity and Insight," in L. Steffen, ed., *Abortion: A Reader* (Pilgrim, 1996) as having stated:

> With the basic understanding of all humans as brothers and sisters, we can appreciate the usefulness of different systems and ideologies that can accommodate different dispositions, different tastes. For certain people under certain conditions, a certain ideology or cultural heritage is more useful. Each person has the right to choose whatever is most suitable. This is the individual's business.

A Greek Orthodox perspective is stated by The Greek Orthodox Archdiocese of North and South America in "A Statement of Abortion," in L. Steffen, ed., *Abortion: A Reader* (Pilgrim 1996):

> When the unborn child places the life of its mother in jeopardy, then and only then can this life be sacrificed for the welfare of its mother. To move beyond this exception would be transgressing man's duty in the protection of human life as understood and interpreted by the Orthodox Church.

While known by many as the "Mormon Church," the LDS Church is more accurately known as The Church of Jesus Christ of Latter-day Saints. The Latter-day Saint position on abortion is stated in "The First Presidency," *Ensign* (March 1991):

> The Church of Jesus Christ of Latter-day Saints has consistently opposed elective abortion.... We have repeatedly counseled people everywhere to turn from the devastating practice of abortion for personal or social convenience. The Church recognizes that there may be rare cases in which abortion may be justified—cases involving pregnancy by incest or rape; when the life or health of the woman is adjudged by competent medical authority to be in serious jeopardy; or when the fetus is known by competent medical authority to have severe defects that will not allow the baby to survive beyond birth. But these are not automatic reasons for abortion. Even in these cases, the couple should consider abortion only after consulting with each other, and their bishop [church leader], and receiving divine confirmation through prayer.

Is abortion wrong under any circumstance? If there are circumstances where an abortion is legitimate, what are they? Who establishes the criteria? The controversy over abortion is as ancient as it is modern. If the moral debates of the past indicate something of what we will face in the future, we will undoubtably see abortion continue to be one of the great moral dilemmas of the twenty-first century.

Suggested Readings

E. Batchelor, Jr., ed., *Abortion: The Moral Issues* (Pilgrim Press, 1982).

M. J. Gorman, *Abortion and the Early Church: Christian, Jewish and Pagan Attitudes in the Greco-Roman World* (Wipf & Stock Publishers, 1998).

D. Maquire, *Sacred Choices: The Right to Contraception and Abortion in Ten World Religions, Sacred Energies Series* (Fortress, 2001).

T. Shannon, *Abortion and Catholicism: The American Debate* (Crossroad, 1988).