

## DEDICATION

I am dedicating this work to my beloved parent, Lolo Madeline Dimokpala Udunehu and Late Nze Charle Okpala Dimokpala and all in Dimokpala's family.



## ACKNOWLEDGEMENTS

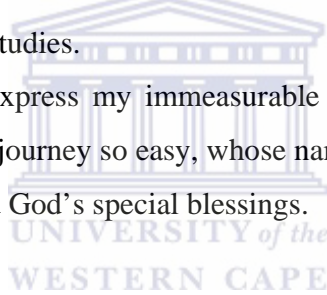
I wish to express my sincere and unalloyed gratitude to all who has contributed immensely in one way or the other towards the success of this work. My first special thanks go to the Almighty God for giving me health and energy to do this research. May His name be praised both now and forever, Amen!

My special thanks go to the Rector and Art Faculty, especially the Department of Religion and Theology, who gave me the opportunity to further my studies here at the University of the Western Cape.

I am most grateful to my erudite moderator, Prof. Christo Lombard, whose suggestions and criticisms were of great help.

Grateful acknowledgement is also due to Mr. Charles Hutchinson who assisted me financially throughout my studies.

In general, I wish to express my immeasurable thanks to all who has kept on encouraging me in making my journey so easy, whose names have not been mentioned. I wish everybody all the best and God's special blessings.



November, 2009.

Christopher Chukwudi Dimokpala

## ABSTRACT

Respect for human life is central in all morality. Yet recent years have seen this respect undermined, particularly in connection with abortion and euthanasia. There is one important moral principle that stands at the centre of all the great moral traditions of the world. It is the principle “You shall not kill.” Respect for human life is fundamental in our dealings with our fellow men/women. If we do not respect their right to life, then we cannot respect any other rights of theirs.

It is not possible in this paper to deal with all the moral problems revolving at the “beginning” and “end” of human life in the modern world. However, something must be said about the question regarding respect for human life vis-à-vis abortion and euthanasia, since they are widely discussed today and since they strike at the very heart of traditional morality. The dignity and worth of individual life cannot be derived from analysis of individual life itself. Humanity is not the measure of all things. Whatever value human beings have is strictly transitory unless it is in our relationship to some ultimate source of value outside us.

Christian faith understands human value as being established by our relationship with God - a relationship created and given by God himself. It is because we have our being from God and are sustained by God that we can meaningfully affirm the value of individual human life.

On the controversial issue of abortion, there are two main positions, and each group tries to give as convincing arguments as possible to favour their own position. Conservatives, e.g the Catholic Church, maintain that a human life begins at the moment of conception and that therefore abortion must be wrong because it is murder. Liberals, like Judith Jarvis Thomson, on the other hand argue that a fetus does not become a person until birth. Therefore a woman may do whatever she pleases in and to her body. At the centre of the storm has been the issue of just when it is between ovulation and adulthood that a person appears on the scene. Conservatives draw the line at conception and liberals at birth.

Euthanasia is another issue that raises controversy among scholars. Autonomy is a centrepiece in the moral defence of euthanasia. In health care, autonomy has a

prominent place as the guiding principle for treating the patient as a person with values, goals, and limits. But this same freedom which preserves the patient's right to refuse treatment is now being extended by advocates of euthanasia to include choosing death and the means to achieve it, even to the extent of eliciting the assistance of another if necessary and desired. Our responsibility for the common good has implications for the way we analyse euthanasia. One important perspective is that we should supplement the individual perspective, which analyses euthanasia as merely a private issue, with the social perspective, which analyses it as a social one.

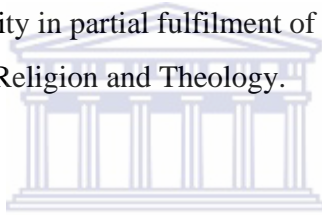
Advocates of euthanasia justify it when these acts: (a) are well motivated, (b) protect or enhance the goods of personal integrity and dignity, which serve as proportionate reasons for intending an evil, and (c) are an expression of the dominion that rational and conscious beings have over the physical world of nature, which includes their bodies and bodily life. Opponents of euthanasia, such as the Catholic Church, still maintain that those whose lives are diminished or weakened deserve special respect. Euthanasia is immoral because we do not have the right to end our own life or to ask others to do so. Euthanasia is a violation of God's sovereign rights. Human life is sacred because from its beginning it involves the creative action of God and it remains forever in a special relationship with the Creator, who is its sole end. God alone is the Lord of life from its beginning until its end. No one can under any circumstance claim for himself/herself the right directly to destroy an innocent human being.

## STATEMENT

I declare that *Catholic reflections on abortion and euthanasia - towards a theology of the sacredness of human life* is my own work, that it has not been submitted before for any degree or assessment at any other university, and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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Christopher Chukwudi Dimokpala ESTERN CAPE

## CHAPTER ONE

### INTRODUCTION

The problem of abortion and euthanasia has been a controversial topic for many years. These two issues have been as thoroughly discussed as any contemporary moral problem. What has become clear is that both abortion and euthanasia, dealing with the beginning and ending of human life, are difficult to define. Even the definitions are contentious. Conservatively, in e.g. a Catholic view, abortion is seen as the removal of the non-viable human being from the mother's womb by human intervention, whether by killing him/her before removal from the womb.<sup>1</sup>

Euthanasia, on the other hand has also been defined in terms of "killing": the direct killing of the incurably sick, be it at their own request, or be it at the request of the legal representative in the case of incurables who are incapable of deciding for themselves.<sup>2</sup> Euthanasia, like abortion, involves issues of patient rights, life and death, the proper function of doctors, the ethics of suicide, and the overlap between law and morality - all contentious and intricate moral issues.

According to Catholic anthropology, every individual, precisely by reason of the mystery of the Word of God who was made flesh<sup>3</sup>, is entrusted to the maternal care of the Church. Therefore every threat to human dignity and life must necessarily be felt in the Church's very heart; it cannot but affect her at the core of her faith in the redemptive incarnation of the Son of God, and engage her in her mission of proclaiming the Gospel of life in the entire world and to every creature.<sup>4</sup> Today this proclamation is especially pressing because of the extraordinary increase and gravity of threats to the life of individuals and people, especially where life is weak and defenceless.

While it is true that the taking of life not yet born or in its final stage is sometimes marked by a sense of altruism and human compassion, it cannot be denied that such altruism and compassion, which becomes part of a culture of death, betrays a completely individualistic concept of freedom of "the strong" against the weak who have no choice but to submit.

The problem of this research is to highlight the secular practice of abortion and euthanasia, which has become such a common feature of secular culture that there is a danger of

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<sup>1</sup> Bohr 1999:353

<sup>2</sup> Bohr 1999:351

<sup>3</sup> Jn 1:14

<sup>4</sup> Mk 16:15

merely taking them for granted. Such human life violations have become a normal part of secular living and are indeed increasingly taken for granted.

Unfortunately, this disturbing state of affairs, far from decreasing, is expanding with the new prospects opened up by scientific and technological progress which spawn new forms of violations on the dignity of the human being. At the same time a new cultural climate is developing and taking hold, which gives crimes against life a new and, if possible, even more sinister character, giving rise to further concern. Broad sectors of public opinion justify certain crimes against life in the name of the rights of individual freedom, and on this basis they claim not only exemption from punishment but even authorization by the State, so that abortion and euthanasia can be done with total freedom and indeed with the free assistance of health care systems.<sup>5</sup>

All this is causing a profound change in the way in which life and relationships between people are considered. The fact that legislation in many countries, perhaps even departing from basic principles of their Constitutions, has determined not to punish these practices against life, and even to make them altogether legal, is both a disturbing symptom and a significant cause of grave moral decline. Choices once unanimously considered criminal and rejected by the common moral sense are gradually becoming socially acceptable.

Even certain sectors of the medical profession, which by its calling is directed to the defence and care of human life, are increasingly willing to carry out these acts against life and the dignity and integrity of the person. In this way the very nature of the medical profession is distorted and contradicted, and the dignity of those who practice it is degraded. In such a cultural and legislative situation, the serious demographic, social and family problems which weigh upon many of the world's peoples and which require responsible and effective attention from national and international bodies, are left open to false and deceptive solutions, opposed to the truth and the good of persons and nations.

My question here is: Why should the Catholic Church's conservative but consistent stance on Abortion and Euthanasia be revisited and reconsidered? How relevant is such a persistent focus on the right to life and human dignity in the moral debates in contemporary culture?

The theoretical framework for the moral discourse on abortion and euthanasia followed in this study is a Catholic one. In the African view, life is a participation in God and life ultimately

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<sup>5</sup> John Paul II 1995 b:7-8

is God's gift. In the Catholic view, life is a special gift from God and God alone is the Lord of life from its beginning until its end. These two views of life fit the Biblical notion "in God's hand are the life of every living and the breath of all mankind."<sup>6</sup> The Catholic moral theology and its consistency on the issues of abortion and euthanasia would be examined with the following documents: *Catechism of the Catholic Church* 2001, *Donum Vitae* 1988, *Evangelium Vitae* 1995, and *Gaudium et Spes* 1990.

The aim of the study is to make available relevant research knowledge and ethical reflection, based in Catholic moral theology, for the law makers, for medical practitioners and for the Christian Community especially the Catholic Church, due to serious increase to the problems of the threats to human life in our day (through indiscriminate abortion and euthanasia), despite all the lip-service to the value and protection of life in our communities. A further aim of the study is for it to be an informed and vigorous reaffirmation of the value of human life and its inviolability. It is hoped that the moral reasoning advocated here could serve as an appeal to each and every person, in the name of the sacredness of God-given life, to respect, protect, love and serve life, every human life, because it is only in this spiritual direction that we will find justice, development, true freedom, peace and happiness.

In order to investigate the research problem stated above, this work has been divided into four chapters, following this short introduction.

In chapter two I will clearly define and elucidate the basic concepts of our discussion. The focus is on human life which includes a discussion of the concept of life in general, the concept of human life, source of human life, purpose of human life, values of human life and sanctity of human life. In chapter three I shall discuss abortion, its narrative context, the immediate political task, pro - life and pro - choice arguments, and a Catholic vision. Chapter four will deal with euthanasia: types, measures and arguments and a Catholic vision. Chapter five deals with theological reflections towards dignity and respect for life. It will highlight basic moral principles which should guide human action with regard to life, arguments from nature and practical effect and finally the Gospel of life as enhancing a new culture of human life. In conclusion, a summary of the issues raised will be made together with moral guidelines for a future culture of respect for human life.

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<sup>6</sup> Jb 12:10



## CHAPTER TWO

### HUMAN LIFE

The dignity of the human person is a transcendental value, always recognised as such by those who sincerely search for the truth. Indeed, the whole of human history should be interpreted in the light of this certainty. Every person created in the image and likeness of God is therefore radically oriented towards the Creator, and is constantly in relationship with those possessed of the same dignity. To promote the good of the individual is thus to serve the common good, which is that point where rights and duties converge and reinforce one another.<sup>7</sup>

#### 2.1 THE CONCEPT OF LIFE IN GENERAL

Etymologically speaking, the term life such as in “biology”- the study of life - comes from the Greek word “*bios*”. Although this has no exact definition, it means having these vital principles as growing, reducing, replacing its own dying cells, maturing and so on.<sup>8</sup>

Furthermore, the Latin word “*vita*”, which means “life”, implies vitality or force. According to the Scholastics life is to be seen as “*vivere viventibus est esse*” – “a thing’s life is its existence.”<sup>9</sup>

Scientifically, life is a singular organisation of matter. Philosophers collectively define life as species of movement. To this end Draganova quoted Aquinas who said: “The name of life is given to a substance to which self movement and the application of itself to any kind of operation belong naturally.”<sup>10</sup>

The term “life” is generally interpreted as the existence of organisms which develop integrally in a series of complicated processes according to their species; and which move in their specific manner and later pass away on account of an irreversible process of decay or decline.<sup>11</sup>

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<sup>7</sup> Sirico & Zieba 2000:23-24

<sup>8</sup> Okechukwu 1990:20-50

<sup>9</sup> Jeuken 1975:18 (vol.24)

<sup>10</sup> Draganova 2008:3

<sup>11</sup> Okechukwu 1990:180

As an African reflecting on threats to human life and dignity such as abortion and euthanasia, it is interesting to take note of the African concept of life and to see how closely it fits the Biblical notion as defined in Catholic moral theology.

In the African concept, life is a participation in God, but it is always mediated by one standing above the recipient in the hierarchy of being.<sup>12</sup> This hierarchy belongs both to the invisible and to the visible world. In the invisible world, the highest place is occupied by God, the source of life. Then come the founding fathers of clans, who participate most fully in the life of God. Then come the tribal heroes, deceased elders, other dead members of the family, and various invisible beings, including earthly powers, although these belong partly also to the visible world. These are followed by beings belonging to the visible world, such as; the king, and the queen-mother, as well as those who wield or represent the royal power; the chiefs of clans and the oldest members of families; heads of households; family members.<sup>13</sup>

In this hierarchical and participatory concept of life, the basic principle is that ancestors live on in their descendants. It is this principle that structures society at its different levels: family, clan, and tribe. At the level of the clan, the mandate of the ancestors is carried by the head of several families together. In the tribe or nation, it is the chief, or king, who represents the ancestors. Kings and chiefs should not be regarded simply as the wielders of secular administrative power. They are connected to the ancestors by a religious bond; they belong to the mystical body of the tribe. Furthermore, it is the function of the chief to give strength and order to his people, although God is recognized as the ultimate source of life.<sup>14</sup>

Traditionally, life is to be understood in a mystical, or metaphysical, sense. The status of customary rules can be understood only on this basis. Biological life is transmitted by God through the elders in their respective positions; they take care to lay down rules, in the form of laws and taboos, to ensure the prosperity of the society. It is for this reason that such great store is set by the experience of the ancestors, or at least of those ancestors who have lived exemplary lives.<sup>15</sup> Such ancestors had laid down laws, and established customs, which embodied their own experiences, and which they passed on to their descendants as a precious legacy. When the descendants remain faithful to their inheritance, and thus make the experience of the ancestors

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<sup>12</sup> Bujo 1992:20

<sup>13</sup> Bujo 1992:21-23

<sup>14</sup> Bujo 1992:20-21

<sup>15</sup> Mulago 1973:41-72

their own, they remain in living communion both with the ancestor and their own living kin, continually reliving the history of their people and proclaiming the marvels which God had performed for them.

The living members of “mystical society” have an inalienable responsibility for protecting and prolonging the life of the community in all its aspects. The details of this responsibility will vary according to a man’s status; but father, clan-leader, chief and king, each at his own level, are under serious obligation to see that the right order established by God and the ancestors is carefully maintained, and each is held accountable for any disorder.

For example, in many tribes, a chief who is no longer contributing to the welfare of his society forfeits his authority, and his subjects have the obligation, for the sake of the ancestors, to remove him from office. In offending against the laws and customs and experiences of the tribe, he is despising the ancestors, and even God himself, and consequently suffocating the life of his people.<sup>16</sup>

In the African concept of life, however, it is not simply religious and political leaders who have the obligation to preserve and transmit life. Every member of the community, down to the least significant, shares the responsibility for strengthening the force of the tribe or clan and of each of its members. The morality of an act is determined by its life-giving potential: good acts are those which contribute to the community’s vital force, whereas bad acts, however apparently insignificant, are those which tend to diminish life. African society is a real “mystical body”, encompassing both dead and living members, in which every member has an obligation to every other.

The head of this mystical body is the founder-ancestor. It is from him that the life-force flows into all the members of the community, to return then to him, not weakened or diminished by its adventures, but greatly strengthened and renewed through the participation of the individual members. A good deed increases the health of the community, and helps to build up the mystical body; an evil deed tends towards the destruction of the community. In the African world-view, all things hang together, all depend on each other and on the whole. This applies particularly to human beings who are closely connected with each other and with God.<sup>17</sup>

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<sup>16</sup> Mulago 1973:22

<sup>17</sup> Mulago 1973:23

These insights from an African view of life in general seem to be supported in many respects by Catholic moral views of life and thus provide an interesting context for discussing abortion and euthanasia.

In a Catholic view, life is taken to be a precious gift from Almighty given to man/woman out of love. God alone is Lord over life and death. Humanity has only the right to use of his/her life but not that of disposing of it.<sup>18</sup> Christian morality ascribes to human life as fundamental values such qualities like “holiness”; respect for life in all its phases is emphasized. In evaluating contemporary debates on abortion and euthanasia, in chapters three and four an attempt is made to find appropriate beacons for a theology of life, which is worked out in chapter five. These attempts rest on fundamental definitions of life given in chapter two.

## 2.2 THE CONCEPT OF HUMAN LIFE

Human life is first understood as the biological dimension of the existence of a being with body and intellect or the continuity of bio-chemical processes.<sup>19</sup> In contrast to plants and animals, the human being takes cognizance of the realities of his life, and recognizes them as contributing to the realization of his personal history.<sup>20</sup> The human person does not merely live through periods of time automatically. Rather, he is capable of recognizing himself as a person within his life time. He is able to reflect over himself, thereby, remembering the past which enables him to plan and hopefully meet up with the demands of the present and future.

The moral theologian, Volker Eid, says that “in so far as the concept of life is not limited to its biological or medical aspects, human life is not merely a situated existence or simply a presence.”<sup>21</sup> It is more of a personal history which extends from conception to death. Consequently, Eid asserts that “the idea of human life cannot be limited to pure vitality or to the continuity of bio-chemical processes. It consists of the integral whole of psychic existence which is primarily directed by reason, will, dispositions, traits and so on, and which concretely

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<sup>18</sup> John Paul II 1989:53

<sup>19</sup> Jeuken 1975:15

<sup>20</sup> Jeuken 1975:17ff

<sup>21</sup> Eid 1983:180

expresses itself in human needs such as happiness, knowledge, communication, love, work, freedom, etc.”<sup>22</sup>

Considered from the point of view of representing the process of human history, “life” is then interpreted as the concrete, complex and mysterious realities of success and failures, trials and error, happiness and sorrow, good and bad fates, freedom and bondage, etc. The term “life” also has a social dimension in as much as in all phases of a human person’s history, he/she is dependent upon his/her environment, his/her fellow men/women and upon the material and cultural conditions necessary for existence and self realization.<sup>23</sup>

Finally, there is no doubt that human nature is highly complex and that this is manifested in all aspects of person’s life. Even on the mechanistic level of manipulating this and that or of exposure to desires and emotions, the human person still appears very distinctly special.

### **2.3 SOURCE OF HUMAN LIFE**

Scientifically speaking, Vaneechoutte argued that it was the interaction between a chemical metabolic community (probiotic chemistry) with newly developed nucleotide strands as carriers having unlimited informational content which led to the origin of life.<sup>24</sup>

Biblically speaking, human life is a gift from God, and a long life is considered a blessing by Holy Scripture. “With long life I will satisfy him.”<sup>25</sup> Yet life is given to men not at will but in stewardship. “None of us lives to himself or herself... if we live, we live to the Lord.”<sup>26</sup> Thus life must not be considered as the highest value, but rather is to be placed in the service of God and neighbour.

Bodily life has often been described as active principle of existence in animals. For human life, however, this active principle involves the creative action of God: “the lord God shaped man from the soil of the ground and blew the breath of life into his nostrils, and man became a living being.”<sup>27</sup>

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<sup>22</sup> Eid 1983:180-181

<sup>23</sup> Eid 1983:166-172

<sup>24</sup> Vaneechoutte 2000:139-147

<sup>25</sup> Ps 91:16; Eph 6:3

<sup>26</sup> Rom 14:8

<sup>27</sup> Gen 2:7 (“man” her refers to “the human being”)

The human life is a lofty gift of God. It is precious. It is God, the creator, sharing his love with the creature. God created the human life for himself. He is its sole end and therefore the Lord of human life from its beginning until its end. This bodily life, which we have seen to be an image of God, is for glorifying God. Jesus Christ, in his bodily life, glorified the Father. This he did by giving up his life as a supreme sign of love for his friends.<sup>28</sup> God gave us life to be holy and blameless.<sup>29</sup>

Furthermore, in a Catholic view, human life is understood as God's gift to humanity. God is the author of life. He alone is Lord over life and death. Man/woman has only the right of use of his/her life but not that of disposing of it.<sup>30</sup> Human beings cooperate to maintain life. Life is a continuum from conception till death.

The Holy Father Pope John Paul II rightly puts it, thus: "Man's life comes from God; it is his gift, his image and imprint, a sharing in his breath of life. God therefore is the sole giver of this life."<sup>31</sup>

## 2.4 PURPOSE OF HUMAN LIFE

In ordinary usage, the terms "end", "aim" and "purpose" are generally interchangeable. The human will is understood as constantly engaged in choosing between alternative and opposite acts according to an end, aim or purpose in view of which a human being is acting. Teleology, which is the study and explanation of being from the point of view of final cause, aims at offering that from which something exists. This final cause is very essential to our understanding of human life because for Sheed "you do not know what anything is until you know what it is for. The complete knowledge demands knowledge of purpose."<sup>32</sup> Now, how can we answer the question of the why of human life: the good or purpose for which it exists?

According to Draganova, again with reference to Aquinas, "all human actions must have to realise some ends. These ends pertain to human beings such as a worker, a teacher, a student. But all humanity by nature is alike."<sup>33</sup> The ultimate human end is the happiness towards which

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<sup>28</sup> Jn 15:13

<sup>29</sup> Eph 1:4

<sup>30</sup> John Paul II 1989:53

<sup>31</sup> John Paul II 1995 b:94

<sup>32</sup> Sheed 1944:202

<sup>33</sup> Draganova 2008:5

each man/woman must act in a proper manner to attain. However, happiness can only be a subjective ultimate end since subjective ultimate end is the “use”, “possession” or “attainment of a thing” which is an objective ultimate end.

Even Marx explains the purpose of human life in terms of ‘*telos*’ (good, aims and ends). Happiness can only be acquired by realising a good, and to acquire happiness ultimately would require the attainment of objective ultimate good. It is this objective ultimate good that would explain ultimately the purpose of human life.<sup>34</sup>

Goods considered by various people as objects of perfect happiness include pleasure, power, honour, wealth, natural virtue and practical wisdom.<sup>35</sup> Some may perhaps argue that it is the natural laws rather than the reality of the purposiveness of the world that keep all things orderly in their activities.

In Catholic theology, the ultimate purpose of human life finds its explanation in the possession of this absolute being – God. For a man/woman to live as a human person, his/her intermediate ends or purpose in life should be informed by this ultimate end. A human person should, therefore, choose his/her actions according to those values that would lead him/her to possess God, which would result in his/her perfect happiness.

## 2.5 VALUES OF HUMAN LIFE

Every end or purpose which is a good in itself, or a means to another end is regarded as a value. In other words, whatever is a “good” for which something exists or is done is a value. The conception of value is not always very clear, straight forward. In the words of Okere, “value is an illusive term but in general, a value is what is regarded as good, as desirable, as worthwhile, a cause worthy of pursuit, worth living, and dying for.”<sup>36</sup>

Therefore, if something is, at least, conceptually of no value, of no worth, non-appreciable, it will neither be sought as an end nor as a means. The idea of ends, purpose, or of values as something good and attractive, is our sign post or our guide in making choices in regard to objects and actions. Every culture has some value systems and every person has some sense of values.

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<sup>34</sup> Marx 1970:40-49

<sup>35</sup> Marx 1970:49ff

<sup>36</sup> Okere 1989:11

In our everyday life we regard some actions as good or bad: we apportion praise or blame; declare a person before us beautiful or ugly. Thus we always make value judgements and this happens whenever we prefer anything, any act or person, to others. And whatever a person values and makes effort to realise is at least meaningful to him.<sup>37</sup>

The human value is objective, no matter the question about the value conflict in human wants. When we talk objectively of values, we are not given a separate entity to value. Just as we may not deny that a blue object has colour, we may not deny also that the value is in the things themselves; goodness, for instance, is not outside the thing good. Thus having dealt with value in detail, it can be concluded that the value of human life can be placed above other values because of humanity's nature and purpose. As regards the value of human life, in those parts of the world influenced by Judeo-Christian thought the life of a human being is regarded as having a unique value.<sup>38</sup>

Human life in particular occupies the highest level of biological life. More so, man/woman is the only being endowed with some transcendental imprint. He/she rightly considers himself/herself the most superior being on earth, not just because of his/her ability to subdue and conquer nature, but more importantly because of his spiritual component. Man/woman is created as God's image and thus human life has a great value and dignity.<sup>39</sup> There is an obvious sanctity in human life, which forbids violence, dehumanization of life or even the taking of it.

The fact of the value of life in itself needs no elaboration, no justification and no defence. It carries its eternal validity on its face. Christian morality ascribes to human life as a fundamental value such qualities like "holiness", "inalienability", and "dignity". With these qualities the respect for life in all its phases are emphasized.

Christian faith understands human value as being established by our relationship with God – a relationship created and given by God himself. It is because we have our being from God and are sustained by God that we can meaningfully affirm the value of individual human life.<sup>40</sup> The crucial ethical question is whether by virtue of God's love of individual human beings

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<sup>37</sup> Ekennia 1997

<sup>38</sup> Ekennia 1997

<sup>39</sup> John Paul II 1995 a:64ff

<sup>40</sup> Wogaman 1976:80



we should properly regard each other as having boundless value. The answer of Christian faith is that what God loves, no person should despise.

When it is really understood, the presumption for the value of individual human life runs directly against the grain of much contemporary culture. Actions and policies have often been taken quite for granted which should rather have had to bear the burden of proof because of their callous disregard of human life.<sup>41</sup> The century of total war, of nuclear armament, of genocide, of concentration camps, of racism, of political repression, has often reversed the order of presumptions. The 'majority report' of this century may well have been expressed in Bertrand Russell's arresting words "Brief and powerless is man's life; on him and his entire race the slow, sure doom falls pitiless and dark."<sup>42</sup> However, Christian judgement must reverse this majority report and insist rather that each individual life is of infinite value. It must insist that no life can be disregarded as unimportant.

Bodily life itself is considered extremely precious throughout the whole of Christian tradition. It is given to us as a sacred trust. Life is a divine gift of which we are stewards - not owners. God alone has sovereign dominion over human life; it is thus inviolable.<sup>43</sup> Bodily life, nevertheless, is not a supreme or absolute good. It has genuine value only when it is spent in the service of God and neighbour. We must not cling to it in a way that it becomes an obstacle to our vocation to love and service. In the quest of life's meaning, human life is altogether impossible without risk. Therefore, the risks involved in such sports as mountain climbing, auto racing, sky diving, etc are looked upon favourably by our contemporary culture.

Even more important are the risks undertaken by doctors and nurses in the course of rendering their professional services. Astronauts, too, face grave dangers in their exploration of space. The underlying principle governing such cases may be stated thus: the greater the love with which one risks one's life, and the greater the service rendered for the common good or a particular person, the purer is the witness rendered to faith and hope, and the more justifiable the risk.<sup>44</sup>

The inviolability of innocent human life has been attested to constantly. In more recent times, for instance, Pope Pius XII affirmed:

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<sup>41</sup> Wogaman 1976:81

<sup>42</sup> Russel 1976:81

<sup>43</sup> Bohr 1999:282

<sup>44</sup> Bohr 1999:282

“Every human being, even a child in the mother’s womb, has a right to life directly from God and not from the parents or from any human activity. Hence there is no human authority, no science, and no medical, eugenic, social, economic or moral ‘inclination’ that can offer or produce a valid juridical title to a direct deliberate disposal of an innocent human life.”<sup>45</sup>

This is because the sanctity of human life is anchored in the fundamental belief that we are made in the image and likeness of God, there is no such thing as valueless life, whether in the beginning or at the end of human existence. Appealing to the fundamental dignity of and respect due to the human person, the Second Vatican council stated that; “All offences against life itself, such as murder, genocide, abortion, euthanasia and wilful suicide; all violations of the integrity of the human person, such as mutilation, physical and mental torture, undue psychological pressures...all these and the like are criminal: they poison civilization”.<sup>46</sup>

The Old Testament stresses the important value of physical human life. It is the basic good without which no other good is possible. The fullness of life is found in the vigour and power of the body and its functions, its capacity for pleasure. A long life is a priceless blessing.<sup>47</sup>

Life, however, in the Old Testament thinking, was not merely a physical or biological reality. It had a primary ethical and religious function. Indeed, health and vigour were believed to ultimately rest upon the integration of the human will with the divine will. Deuteronomy constantly points to the fact that life is given and maintained by the love of Yahweh and fidelity to his commandments.<sup>48</sup> Thus, we read that, “not by bread alone does man live, but by every word that comes forth from the mouth of the Lord”<sup>49</sup>

A large part of contemporary society looks sadly like that humanity which St. Paul describes in his letter to the Romans. It is composed “of men/women who by their wickedness suppress the truth”.<sup>50</sup> Having denied God and believing that they can build the earthly city without him, “they became futile in their thinking” so that “their senseless minds were darkened” “claiming to be wise, they became fools”, carrying out works deserving of death, and “they not

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<sup>45</sup> Pius XII 1951:27

<sup>46</sup> Tanner and Alberigo 1990:1106. This document will hereafter be cited as *Gaudium et Spes*. All other citations from the Vatican II will be taken from this work of Tanner and Alberigo.

<sup>47</sup> Bohr 1999:280

<sup>48</sup> Dt 4:1, 6:24, 16:20, 30:6.

<sup>49</sup> Dt 8:3

<sup>50</sup> Rm 1:18 (

only do them but approve those who practice them.”<sup>51</sup> And yet all the conditioning and efforts to enforce silence fail to stifle the voice of the Lord echoing in the conscience of every individual. It is always from this intimate sanctuary of the conscience that a new journey of love, openness and service to human life can begin.

## 2.6 SANCTITY OF HUMAN LIFE

Sanctity in this regard refers to the sacredness, the preciousness, the wholeness which a thing possesses that makes it what it is and how it is to be regarded. Human life is a dynamic life and entirely devoted towards a purpose.<sup>52</sup> Human life presents a question as to its end and purpose. It must be borne in mind that human life is precious and divinely ordained by God.

Our life derives its meaning, therefore, from the nature of the relationship that exists between us and God. Furthermore, humanity maintains an autonomous right of life which adds more meaning to what the human being values. A violation of life is a violation of the divine will of God for humanity. Explaining the Catholic view, the Pope writes:

“Human life is sacred because from its beginning it involves the creative action of God and it remains forever in a special relationship with the creator, who is its sole end. God alone is the Lord of life from its beginning until its end; no one can, in any circumstance, claim for himself the right to destroy directly an innocent human being.”<sup>53</sup>

With these words the instruction *Donum Vitae* sets forth the central content of God’s revelation on the sacredness and inviolability of human life. Human life is thus given a sacred and inviolability character, which reflects the inviolability of the Creator himself.<sup>54</sup>

To kill or threaten a human being, in whom the image of God is present, is a particularly serious sin. Only God is the master of life. Human life is sacred and inviolable at every moment of its existence. The human being’s life comes from God; it is God’s gift, his image and imprint, a sharing in his breath of life. God, therefore, is the sole Lord of this life: man/woman cannot do with it as he/she wills. God makes this clear to Noah after the flood: “For your own lifeblood,

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<sup>51</sup> Rm 1:21-32

<sup>52</sup> The Catechism of the Catholic Church 2001:481. For further reference this book will be cited as CCC.

<sup>53</sup> John Paul II 1995 b:26-31

<sup>54</sup> Sirico & Zieba 2000:51

too I will demand an accounting... and from man in regard to his fellow man I will demand an accounting of human life”.<sup>55</sup> The biblical text is concerned to emphasize how the sacredness of life has its foundation in God and in God’s creative activity: “For God made man/woman in his own image”<sup>56</sup>

The inviolability of the person which is a reflection of the absolute inviolability of God, finds its primary and fundamental expression in the ‘inviolability of human life.’ Above all, the common outcry, which is justly made on behalf of human rights for example, the right to health, to home, to work, to family, to culture is false and illusory if ‘the right to life,’ the most basic and fundamental right and the condition for all other personal rights, is not defended with maximum determination. The Church has never yielded in the face of all the violations that the right to life of every human being has received, and continues to receive, both from individuals and from those in authority. The human being is entitled to such rights, in every phase of development, from conception until natural death; and in every condition whether healthy or sick, whole or handicapped, rich or poor.<sup>57</sup>

The Church today lives a fundamental aspect of her mission in lovingly and generously accepting every human being, especially those who are weak and sick. This is made all the more necessary as a culture of death threatens to take control. In fact, the Church family believes that human life, even if weak and suffering, is always a wonderful gift of God’s goodness. Against the pessimism and selfishness which casts a shadow over the world, the Church stands for life, in which each human life she sees the splendour of that ‘Yes,’ that ‘Amen,’ which is Christ himself.<sup>58</sup>

To the ‘No’ which assails and afflicts the world, she replies with this living ‘Yes,’ this defending of the human person and the world from all who plot against life. It is the responsibility of the lay faithful, who more directly through their vocation or their profession are involved in accepting life, to make the Church’s ‘Yes’ to human life concrete and efficacious.<sup>59</sup>

In the Catholic tradition, human life is understood as God’s gift. God is the author of life. He alone is Lord over life and death. The human being has only the right of use of his/her life

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<sup>55</sup> Gn 9:5

<sup>56</sup> Gn 1:26

<sup>57</sup> Sirico & Zieba 2000:51-52

<sup>58</sup> II Cor. 1:19; Rev 3:14

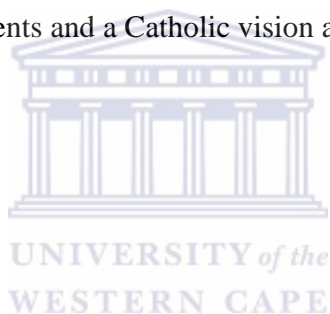
<sup>59</sup> Sirico & Zieba 2000:52

but not that of disposing of it.<sup>60</sup> Human beings cooperate to maintain life. Life is a continuum from conception till death.

The Holy Father Pope John Paul II puts it thus: “Man’s life comes from God; it is his gift, his image and imprint, a shorting in his breath of life. God therefore is the sole giver of this life.”<sup>61</sup>

We have seen the interpretation of human life as the existence of organisms which develop integrally in a series of complicated processes according to their species.<sup>62</sup> By mere critical examination, we can see that this view deprives human life of the dignity and sanctity that is accorded to it. It also creates a barrier between humanity and God who is the sole giver of human life.

These discussions on human life lead us to chapter three which is one of the main focuses of this paper. In the next chapter, I shall discuss abortion, its narrative, the immediate political task, the pro-life and choice arguments and a Catholic vision and critique.



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<sup>60</sup> John Paul II 1989:53

<sup>61</sup> John Paul II 1995 c:59

<sup>62</sup> Okechukwu 1990:180

## CHAPTER THREE

### ABORTION

Abortion may be described in general terms as the deliberate destruction of a foetus (baby in the womb) before it is born. It is the removal of the non-viable human being from the mother's womb by human intervention, whether by killing him/her before removal from the womb, or whether by exposing him/her to a certain death outside the womb.<sup>63</sup>

Abortion is direct when the ejection of the non-viable fruit or the destruction of the offspring in the womb is intended as the aim of an action or as a means to achieve this aim, e.g. abortion in order to save the reputation of an unwed mother. It is indirect if the death of the foetus is merely permitted as a comitant effect of a directly willed end, e.g the death of a foetus caused by the removal of the cancerous uterus of a pregnant mother.<sup>64</sup>

#### 3.1 CHRISTIANS AND ABORTION: THE NARRATIVE CONTEXT

Reynolds thinks that arguments concerning abortion have failed in our society because of the moral presuppositions and language offered by our liberal ethos. He suggested that failure at this level was an indication of a deeper failure for Christians. Christians have failed their social order by accepting too easily the terms of argument concerning abortion offered by our society. It is certainly true that Christians, drawing on their Jewish roots, have condemned abortion from earliest days. This condemnation does not come from nowhere; it is a correlative of a way of life that must be constantly renewed and rethought.<sup>65</sup>

The task of each new generation of Christians is to rediscover that way of life and why prohibitions such as that against abortion are critical reminders of what kind of life it is that they are called to lead. The Christian way of life though often lived simply, is no simple matter but involves a complex set of convictions that are constantly being reinterpreted as our understanding

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<sup>63</sup> Hoose 1998:353

<sup>64</sup> Hoose 1998:353

<sup>65</sup> Reynolds 2006:195

of one aspect of the tradition illuminates another.<sup>66</sup> What we must do is to show how this process makes a difference for our understanding of the prohibition of abortion.

It is essential for me to make my argument distinct from that of those who make the often unfair criticism that the church must rethink her position on abortion because it allows the taking of life in other contexts. Although I am not denying the fact that Christians have often been inconsistent, especially in practice, about the protection and taking of life, there is nothing conceptually inconsistent about the prohibition of abortion as the unjust taking of life and the permissibility of just war and capital punishment. My call for the church to rethink her understanding of abortion involves the more fundamental concern that the church understands why abortion is incompatible with a community whose constitution is nothing less than the story of God's promise to mankind through the calling of Israel and the life of Jesus.

Such a discussion must be both theologically and politically balanced. One cannot be separated from the other. According to Reynolds our beliefs about God are political, as they form the kind of community that makes the prohibition of abortion intelligible.<sup>67</sup> But the discussion is also political, as it must be done in a way that Christians listen and learn from one another concerning their different understanding of what is at stake in abortion. Only by proceeding in this way can we be a paradigm and perhaps even a witness to our society of what a genuine moral discussion might look like. For him, it does not mean that such a discussion has been missing entirely in recent Christian history. Yet he thinks that it is fair to say that we have not paid sufficient attention to how Christians as Christians should think about abortion.<sup>68</sup> He tries to suggest the kind of theological concerns that any discussion of abortion by Christians should involve.

We must remember that "abortion" is not a description of a particular kind of behaviour; rather it is a word that teaches us to see a singular kind of behaviour from a particular community's moral perspective. The removal of the fetus from the mother's uterus before term can be called an "interruption of pregnancy," the child can be called "fetal matter," and the mother can be called a patient.<sup>69</sup>

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<sup>66</sup> Hauerwas 2006:188-195

<sup>67</sup> Reynolds 2006:195

<sup>68</sup> Reynolds 2006:195

<sup>69</sup> Hauerwas 2006:195

It must however be quite clear, from a Christian perspective, that to depict the situation in such terms changes the self and the community in a decisive way. The Christian insistence on the term “abortion” is a way to remind us that what happens in the removal of the fetus from the mother in order to destroy it strikes at the heart of our community. From this perspective the attempt of Christians to be a community where the term “abortion” remains morally intelligible is a political act. In this respect the pro-abortionists have always been at a disadvantage. For they have had to carry out the argument in a language created by the moral presuppositions of the Jewish and Christian communities. Abortion still carries the connotation that this is not a good thing. Thus to be “pro-abortion” seems to put one in an embarrassing position of recommending a less than good thing. It is not without reason therefore that the pro-abortions advocates seek to re-describe both the object and act of abortion.<sup>70</sup> We must remind them, however that by doing so they not only change the description of the act, they also change themselves.

Christians insist on the significance of such a change by refusing to live in a world devoid of abortion as a moral description – a world which admittedly may as a result, involve deep tragedy. There is no doubt that the insistence that unjust termination of pregnancy be called “abortion” has to do with our respect for life, but that is surely too simple. Jews and Christians are taught to respect life, not as an end in itself, but as a gift created by God.<sup>71</sup> Therefore life is respected because all life serves God in its way. Respect for human life is but a form of our respect for all life.

The Christian prohibition against taking life rests not on the assumption that human life has overriding value, but on the conviction that it is not ours to take. The Christian prohibition of abortion derives not from any assumption of the inherent value of life, but rather from the understanding that as God’s creatures we have no basis to claim sovereignty over life. We cannot forget that this creator is also our redeemer. The life that lies in the womb is also a life that has come under the Lordship of Jesus Christ.

Karl Barth has said:

“This child is a man for whose life the Son of God has died, for whose unavoidable part in the guilt of all humanity and future individual guilt He has already paid the price. The true light of the world shines already in the darkness of the mother’s womb. And yet they

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<sup>70</sup> Reynolds 2006:196

<sup>71</sup> Reynolds 2006:196



want to kill him deliberately because of certain reasons which have nothing to do with the child himself favour the view that he had better not be born! Is there any emergency which can justify this? It must surely be clear to us that until the question is put in all its gravity a serious discussion of the problem cannot even begin, let alone lead to serious results.”<sup>72</sup>

The value of life is God’s value and our commitment to protect it is a form of our worship of God as a good creator and a trustworthy redeemer. Our question is not “When does life begin?” but “Who is its true sovereign?” The creation and meaningfulness of the term “abortion” gain intelligibility from our conviction that God, not the human being, is creator and redeemer, and thus, the Lord of life. The Christian respect for life is first of all a statement, not about life, but about God.<sup>73</sup>

Christians’ way of life involves more than the conviction of God’s creating and redeeming purposes. Christians also believe that God has created and called them to be a people whose task it is to manifest and witness to his providential care of their existence. Thus to be a Christian is not just to hold on certain beliefs, but it is to be part of a historic community that has the task of maintaining faithful continuity with their forebears. To be Christian is to be part of a people who live through memory, since they only know how to face and create their future by striving to be as faithful and courageous as their forebears.<sup>74</sup> The necessity of memory for our continued existence is but a form of our worship of God, who wills to be known through the lives of his followers.

Furthermore, Christians are thus a people who have an immense stake in history. We look neither to escape nor to transcend history. Rather we are determined to live within history, hopefully living faithful to the memory of our founder. There is no conviction, therefore, more significant for Christians than our insistence of having children. For children are our anchors in history, our pledge and witness that the Lord we serve is the Lord not only of our community, but of all history. The family is, therefore, symbolically central for the meaning of the existence of the Christian people. From a Christian perspective children represent our continuing commitment to live as a historic people.<sup>75</sup> In the Christian community children are, for those who

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<sup>72</sup> Barth 1961:416

<sup>73</sup> Hauerwas 2006:196

<sup>74</sup> Reynolds 2006:196

<sup>75</sup> Reynolds 2006:196

are called to be married, a duty, for the vocation of marriage in part derives its intelligibility from a couple's willingness to be open to new life. Indeed that is the part of the test of the validity of their unity as one worthy to be called "love" in the Christian sense. It must necessarily be open to creation of another.

The Christian community's openness to new life and our conviction of the sovereignty of God's love for that life are but two sides of the same conviction. Christians believe that we have the time in this existence to care for new life; especially as such life is dependent and vulnerable, because it is not our task to rule this world or to make our mark on history. We can thus take the time to live in history as God's people who have nothing more important to do than to have and care for children. For it is the Christian claim that knowledge and love of God is fostered by service to the neighbour, especially the most helpless, as in fact that is where we find the kind of Kingdom our God would have us serve.<sup>76</sup>

It is the Christian belief, nurtured by the command of Jesus, that we must learn how to love one another, which we become more nearly what we were meant to be through the recognition and love of those we did not choose to love. Children, the weak, the ill, the dispossessed provide a particularly intense occasion for such love, as they are beings we cannot control. We must love them for what they are rather than what we want or wish them to be, and as a result we discover that we are capable of love. The existence of such love is not unique or limited to Christians. That is the reason why we have the confidence that our Christian convictions on these matters might ring true even for those who do not share our convictions. The difference between the Christian and the non-Christian is only that what is a possibility for the non-Christian is a duty for the Christian.

The Christian prohibition of abortion is but the negative side of their positive commitment to welcome new life into their community: life that they know must challenge and perhaps even change their own interpretation of their tradition, but also life without which the tradition has no means to grow.<sup>77</sup> It is true that children will often be conceived and born under less than ideal conditions, but the church lives as a community which assumes that we live in an age which is always dangerous. That we live in such a time is all the more reason we must be the kind of

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<sup>76</sup> Reynolds 2006:197

<sup>77</sup> Reynolds 2006:197

community that can receive children into our midst. We can neither protect them from that suffering nor deny them the joy of participating in the adventure of the Kingdom of God.

For the Christians therefore, there can be no question of whether the fetus is or is not a “human being.” Rather, because of the kind of community we are, we see in the fetus nothing less than God’s continuing creation that is destined in hope to be another citizen of His Kingdom. The issue of when human life begins is of little interest to such people, since their hope is that life will and does continue to begin time after time. This is the form of life that brings significance to our interaction with the fetus. Our history is the basis for our “natural” sympathies, which have been trained to look forward to the joy and challenge of new life. The expectation of parents, and in particular of women, for the birth of their children remains a powerful form of life that continues to exert a force on everyone.<sup>78</sup> Such an expectation however in the absence of more substantive convictions about parenting, too easily becomes a destructive necessity that distorts the experience of being a parent and a child.

Particularly repugnant is the assumption that women are thus primarily defined by the role of “mother,” for then we forget that the role of being a parent, even for the childless, is a responsibility for everyone in the Christian community. From the world’s perspective, the birth of a child represents but another drain on our material and psychological resources.<sup>79</sup> Children, after all, take up much of our energy that could be spent on making the world a better place and our society more just. But from the Christian perspective, the birth of a child represents our commitment that God will not have this world “bettered” by destroying life. This is why there is no more profound political act for Christians than taking the time for children. It shows that God, not humanity, rules this existence, and we have been graciously invited to have a part in God’s adventure and his kingdom through the simple action of procreation.

### **3.2 CHRISTIANS AND ABORTION: THE IMMEDIATE POLITICAL TASK**

Christians should prefer to live in societies that provide protection for children. And Christians should certainly wish to encourage those “natural” sentiments that would provide a basis for having and protecting children.<sup>80</sup> Moreover Christians must be concerned to develop

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<sup>78</sup> Hauerwas 2006:197

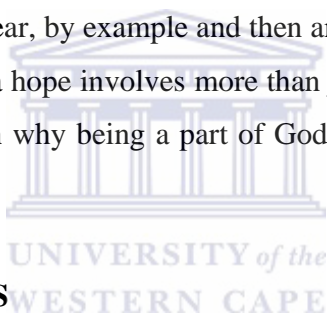
<sup>79</sup> Hauerwas 2006:198

<sup>80</sup> Reynolds 2006:198

forms of care and support, the absence of which seem to make abortion such a necessity in our society. In particular Christians should, in their own communities, make clear that the role of parents is one we all share. Thus the woman who is pregnant and carrying the child need not be the one to raise it. We must be a people who stand ready to receive and care for any child, not just as if it were one of ours, but because in fact each is one of ours.<sup>81</sup>

As Christians we must not confuse our political and moral strategies designed to get the best possible care for children in our society with the substance of our convictions. Nor should we hide the latter in the interest of securing the former, for when that is done we abandon our responsibility towards society.

The most important thing is that we will be wise as Christians in stating our opposition to abortion in a manner that makes clear our broader concerns for the kind of people we ought to be. Therefore, instead of concentrating our energies on whether the fetus is or is not “a person”, we would be better advised to make clear, by example and then argument, why we should hope it is a child.<sup>82</sup> We must show that such a hope involves more than just the question of the status of the fetus, but indeed is the very reason why being a part of God’s creation is such an extraordinary and interesting adventure.



### 3.3 PRO-LIFE ARGUMENTS

John Noonan argues from biology that, “the conceptus is, indeed, a separate living being, with its own distinctive genetic code. Though heavily dependent on the mother, it is clearly human, the first moment in the continuum of human life from its beginning to its end. Because we grant moral standing to human beings regardless of their age, their physical or mental condition, or their social status, a fetus should be protected from abortion as a full-fledged member of the human community.” For Noonan, exceptions to the protective rule can only occur when the mother’s very life is jeopardized by the pregnancy.<sup>83</sup>

Not all arguments depend on what we say about the fetus, as above, but some abortion arguments turn on what is said about the moral status of the fetus. They ask several questions, such as: Is the fetus a human being; a person; alive? In this regard, Noonan did not focus on these

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<sup>81</sup> Reynolds 2006:198

<sup>82</sup> Cohen, Nagel & Scanlon 1974:52-84

<sup>83</sup> Noonan 2006:175

terms and what they might mean, but on the more general issues; that is the question of what kind of value or moral status the developing fetus has. Does it have a different status in various stages of development? If so, when does the status change, and why? How should its value or rights, compared to other values or the rights of others, be weighed?

Following Mackinnon, I will examine a first approach (“Method 1”) and distinguish it from a broader approach (“Method 2”). Briefly put: method one focuses on the characteristics of the fetus and asks when it has what should be considered so significant that it is a person or has a new moral status from that point on. Method two asks a more general question. It asks us to think about what kind of beings of any sort, human or nonhuman, have some special moral status and possibly also rights such as a right to life.

## **METHOD ONE**

This method focuses on fetal development and asks three things about possibly significant stages: (1) what is present? (2) When is this present and at what stage? (3) Why is this significant – in other words, why does this give this being special moral status, if it does? By special moral status, various things could be meant. Among the most important would be to have something like a right to life. If this were the case, then abortion would become morally problematic.<sup>84</sup>

Suppose we try the first Method on various stages in fetal development and see what the arguments would look like. In each case, let us consider the arguments for the position and then some criticisms of these arguments.

## **CONCEPTION OR FERTILIZATION**

Fertilization (when sperm penetrates the ovum) is the time at which many opponents of abortion say that the fetus has full moral status.<sup>85</sup> The reason usually given is that this is when the fetus has the full genetic makeup from the combination of sperm and egg. In times past, people held that the egg provided the entire substance and the sperm only gave it a charge or impetus to grow, or that the sperm was “the little man” and only needed a place to grow and

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<sup>84</sup> Mackinnon 2004:167

<sup>85</sup> Mackinnon 2004:167

obtain nourishment, which the egg provided. We now know about the contribution of both the sperm and ovum to the zygote.

Mackinnon's argument for taking this stage as the morally significant one supposes an ontological argument something like this: If we say that the resulting being that is born is a human being or person, and if there is no significant change in its development from its initial form, then it is the same being all the way through the development period. Otherwise, we would imply that different beings are succeeding one another during these processes.<sup>86</sup>

Critics of this position may point out that although fetal development is continuous, the bare genetic basis present at conception is not enough to constitute a person at that point. In this early stage the cells are totipotent, and they can become skin cells or heart cells or many other types of cells. There is no structure or differentiation at this point, nothing that resembles a person in this initial form. There is not even an individual there.<sup>87</sup>

Consider, for example, what happens in the case of identical twins. Before implantation, identical twins are formed by the splitting of cells in the early embryo. Each resulting twin has the same genetic makeup. Now, what are we to think of the original embryo? Suppose conception is the time when we are supposed to have an individual being. We will call him John. The twins that develop and later are born are Jim and Joe. What happened to John, if there was a John? Jim and Joe are two new individuals, genetically alike as twins, but also two different people. Is there a little of John in each of them? Or does the fact that there was not any individual there before that time, mean that John never existed? Those who support conception as the crucial time at which we have a being with full moral status and rights must explain how there can be an individual at conception, at least in the case of identical twins.

## DETECTABLE BRAIN WAVES

Another possibility for when a fetus might attain new moral status is that point at which brain waves begin to be detectable. The idea is reasonable, given that the human brain is the locus of consciousness, language, and communication, and it is what makes us crucially different from other animals.<sup>88</sup> Moreover, the cessation of brain function is now used as the determinant

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<sup>86</sup> Mackinnon 2004:167

<sup>87</sup> Mackinnon 2004:167

<sup>88</sup> Mackinnon 2004:167

of death. Why should we not use the beginning of brain function as the beginning of an individual's life? We can detect brain activity between the sixth and eight weeks of fetal development, which makes that point the significant time for this view.

Critics of this argument point out that brain activity develop gradually and we can single out no one time during its development as unique. However, this may be only a practical problem. We might be satisfied with an approximation rather than a determinate time. Other questions about the type of brain function also might be raised. At six to eight weeks, the brain is quite simple; only much later do those parts develop that are the basis of conscious function. At earlier stages, the brain is arguably not that different from other animal brains in structure or function.<sup>89</sup>

## QUICKENING

Usually the pregnant woman can feel the fetus kick or move in approximately the fourth month of fetal development. This is what is meant by quickening.<sup>90</sup> In former times, people may have thought there was no fetal movement before this time, and this would then be a more persuasive reason to consider this stage as crucial. Still, we could think of the movement present at this time as self-initiated movement because it now stems from a new level of brain development. This would make a better reason for considering this the beginning of the being's new life because it would now be moving about on its own.

Critics will raise the same issue for this point as for brain development, namely, that there is no dramatic break in development of the ability of the fetus to move. Moreover, they might also point out that other animals and even plants move on their own, and this does not give them special moral status or a right to life.<sup>91</sup> Furthermore, those who argue for animal rights usually do so because of their sentience, their ability to feel pleasure and pain, and not their ability to move.

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<sup>89</sup> Mackinnon 2004:167

<sup>90</sup> Mackinnon 2004:168

<sup>91</sup> Mackinnon 2004:168



## VIABILITY

At approximately the fifth month in fetal development, the fetus is capable of existing apart from the pregnant woman or mother; this stage is designated the stage of viability.<sup>92</sup> All the organs and organ systems of the fetus are sufficiently developed, so that it can function on its own. The last system to be functionally complete is the respiratory system. During previous stages of fetal development, the fetus “breathes” amniotic fluid. Before twenty-three or twenty-four weeks of gestation “capillaries have not yet moved close enough to the air sacs to carry gases to and from the lung.”<sup>93</sup> A lubricant, surfactant, can be administered to help the lungs expand and take in air, but even then the chance of survival is slim. One practical problem with using viability as a criterion is its variability. When *Roe v. Wade* took effect,<sup>94</sup> viability was considered to be approximately twenty-six weeks; the estimation has since been shortened by a couple of weeks. At twenty-three or twenty-four weeks, the “micropremie” weighs slightly less than a pound. Its prematurity is also a function of this weight and the mother’s socioeconomic status; if she’s poor, then the chances are that her nutrition is poor. Prematurity also varies by sex and race. Girls are approximately one week ahead of boys in development, and blacks are approximately one week ahead of whites.<sup>95</sup>

Why is the stage of viability singled out as the stage at which the fetus may take on a new moral status? However, if delivered at this time and left on its own, no infant would be able to survive. Perhaps the notion of separate existence is what is intended. The idea would be that the fetus is more clearly distinct from the mother before birth at this point.

Critics of viability can point again to the gradual nature of development and the seeming arbitrariness of picking out one stage of completeness as crucially different from the others. They also can point out that the viable fetus would still be dependent on others even if it were delivered at the point of viability. Even someone dependent on machines is not for this reason less human, they might argue.

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<sup>92</sup> Stolberg 1997:13

<sup>93</sup> Mackinnon 2004:168

<sup>94</sup> This famous landmark case decided by the United States Supreme Court on the issue of abortion, is one of the most controversial and politically significant cases in U.S. Supreme Court history. The Court held that a woman may abort her pregnancy for any reason, up until the “point at which the fetus becomes 'viable'”. The Court defined viability as the potential “to live outside the mother's womb, albeit with artificial aid,” adding that viability “is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks”.

<sup>95</sup> Mackinnon 2004:168



Each point in fetal development may provide a reasonable basis for concluding something about the moral status. However, as we can clearly see none are problem-free. In any case, the whole idea of grounding moral status and rights on the possession of certain characteristics also may be called into question. We might be able to get some help in thinking about this problem by looking at a Mackinnon's second method.

## **METHOD TWO**

If what we say about the fetus is crucial to our position about the morality of abortion, then we may do well to compare what we say here to what we say about beings other than human fetuses. Why, for example, do we believe that people generally have rights? Are we significantly different from other animals such that we have unique moral status simply because we are human beings? Or is the crucial determinant of special moral status or worth the ability to reason or think or imagine or dream? If so, then if there are other intelligent beings in the universe, then would they have the same moral status as we do, even if they were not members of our species? Or suppose further that we consider cases in which human beings do not have the capacity for thought and reasoning and communication. Think, for example of a new born with anencephaly, that is without a developed upper brain and thus with no chance of consciousness or thought.

In fact, such an infant does not usually live for long. But it is a human being biologically and not a member of some other species. Or take the case of the other end of life in which a person is in a permanent vegetative state. There is no doubt that the person is still human in the biological sense, but does this person lack human rights because he or she lacks some mental qualities that are the basis for rights?

Finally, perhaps it is not actual ability to think or communicate but the potential for the development of these characteristics that grounds special moral worth and rights. A normal fetus would have this potentiality whereas a two year old dog would not. Of course, this depends on the level or type of thinking that is seen to be crucial, because dogs do have some type of mental capacity and some ability to communicate.<sup>96</sup> Taking each suggestion and giving it a name, we

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<sup>96</sup> Mackinnon 2004:169

might have something like the following positions. Each gives an answer to this question: What kinds of beings have special moral status, which may include something like a right to life?

## BEING HUMAN

According to Mackinnon, it is being a human being that counts – being a member of the human species. Using this criterion, we can note that human fetuses are members of the human species and conclude that they equal moral status with all other human beings.<sup>97</sup>

Mackinnon's argument for this position might include something about the moral advance we make when we recognise that all humans have equal moral worth. This has not always been the case, such as when children or women were considered more as property than as human beings, or when African-American slaves were each considered to be three-fifths of a person. Nevertheless, questions can be raised about why only members of the human species are included here. If some other species of being were sufficiently like us in the relevant respects, then should they not be considered to have the same worth as members of our own species? In considering this possibility, we may be better able to decide whether it is membership in a species or something else that grounds moral worth.<sup>98</sup>

## BEING LIKE HUMAN BEINGS

The second position which Mackinnon explores in terms of method two, is being like human beings. Her argument is as follows: Suppose that moral status depends on being a member of any species whose members have certain significant characteristics like human beings. But what characteristics are significant enough to ground high moral value and status, including rights? For example, consider the abilities to communicate, reason, and plan. Depending on how high level of communicating, reasoning, and planning is required, perhaps other animals would qualify for the high moral status envisioned. Some chimpanzees and gorillas, for instance, can learn to communicate through sign language, according to some

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<sup>97</sup> Mackinnon 2004:169

<sup>98</sup> Mackinnon 2004:169

scientists.<sup>99</sup> If there are beings elsewhere in the universe who are members of a different species but who can communicate, reason, and plan, then according to this criterion they too would have the same moral worth as humans. If a lower level of ability were used, then members of other animal species would also qualify.

These first two criteria are alike in that it is membership in a species that is the determinant of one's moral status. If any humans have this status, then they all do. If chimpanzees have this status, or Martians, then all members of their species also have this status. It does not matter what the individual member of the species is like or what individual capacities she or he possesses. On the other hand, perhaps it is not of what species you are a member but what individual characteristics you have that form the basis of the special moral status we are concerned with here. If this were the case, then there would be at least three other possible positions about the basis of moral status. These are as follows:

#### POTENTIALITY

Potentiality literally means "power." According to this criterion, all beings that have the power to develop certain key characteristics have full moral worth.<sup>100</sup> Thus, if a particular fetus had the potential for developing the requisite mental capacities, this fetus would have full moral status. However, any fetus or other human being that does not have this potential does not have this status. Yet how important is potential and what, in fact, is it? Suppose that one had the potential for becoming a famous star or holding political office. Would one then have the same respect and rights due the actual star, say, or the legislator?

#### ACTUALITY

At the other end of the spectrum is the view according to which simple "potentiality" for developing certain characteristics counts for nothing. Only the actual possession of the requisite characteristics is sufficient for full moral status.<sup>101</sup> Again it makes a significant difference to one's position here whether the characteristics are high-level or low-level. For example, if a

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<sup>99</sup> Mackinnon 2004:169

<sup>100</sup> Mackinnon 2004:170

<sup>101</sup> Mackinnon 2004:170

rather high level of reasoning is required before an individual has the requisite moral status, then newborns probably would not be included, as well as many others.

According to this view, although the fetus, newborn infant, and extremely young child are human beings biologically, they are not yet persons or beings with the requisite moral status. They are not yet members of the moral community. There may be good reasons to treat them well and with respect, but it is not because they are persons with rights.<sup>102</sup>

## EVOLVING VALUE

Finally, Mackinnon considers a position that is intermediate between the last two positions. Its underlying idea is that potential counts – but not as much as actual possession of the significant characteristics. Furthermore, as the potential is gradually developed, the moral status of the being also grows. This position also could be described in terms of competing interests and claims.<sup>103</sup> The stronger the claim, the more it should prevail. If this is my book then I have a stronger claim over it than you who would like to have the book.

In applying this criterion to fetal development, Mackinnon concluded that, the early-term fetus has less moral value or moral status than the later term fetus. Less of a claim or interest on the part of others is needed to override its claim to consideration. Moderately serious interests of the pregnant woman or of society could override the interests or claims of the early-term fetus, but it would take more serious interests to override the claims of the late-term fetus. In the end, according to this view, when potentiality is sufficiently actualized, the fetus or infant has as much right as any other person.<sup>104</sup> Although some people may view the evolving value position as a reasonable moral one, it would be more difficult to use it in a legal context in which claims and interests would need to be publicly weighed and compared for.

From a feminist perspective, Susan Sherwin sees the abortion controversy as part of the larger struggle for women's liberation. She argues that "the power to control the incidence, timing and frequency of childbearing is central to the control of most other things in a woman's life. Only the woman herself is in a position to weigh all the relevant factors necessary to determine whether abortion is the best response to the situation. The fetus is morally significant

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<sup>102</sup> Mackinnon 2004:170

<sup>103</sup> Mackinnon 2004:170

<sup>104</sup> Noonan 1970:20-35

but its status is dependent upon its relation to the pregnant woman. Patterns of male sexual dominance mean that women often have little control over their sexual lives, and because women cannot rely on birth control alone to avoid pregnancy, abortion must be available if they are to be genuinely liberated from male dominance.<sup>105</sup>

Some feminists also have misgivings about the implications of some abortion supporters' views of the moral status of the fetus. Like the last of the five positions in method two, they argue that the fetus is surely human. It is both part and not part of the pregnant woman, but a separate being. Abortion is morally problematic, in some of these views, because the loss of an early form of human life is, in fact, loss of part of the mother's own life.<sup>106</sup> However, this is not to imply that these views grant the fetus full moral status and rights. These critics do not necessarily conclude that abortion is morally impermissible.

These positions, as well as those summarized in method one, are positions that focus on what to say about the status of the fetus. If the fetus does not have the requisite moral status, then abortion is probably morally permissible. If it does not have that status, then abortion is morally problematic. If the fetus is said to have a somewhat in-between status, then the conclusion about abortion would be mixed. Again, these are positions that put the whole weight of the moral judgement about abortion on what status the fetus does or does not have.

Finally, it must be remembered that unless one believes that everything that is immoral ought to be illegal, then even if abortion were in some case thought to be immoral, one would need to give further reasons about the purpose of law to conclude that it also ought to be illegal.<sup>107</sup> So also if you believe that the only reason why something ought to be illegal is if it is immoral, then if abortion is morally permissible you should conclude that it ought to be legally permissible. From this point of view, there would be no other relevant legal considerations. Both views are problematic.

On another note Don Marquis offers what he considers to be an essential new argument to establish the basic wrongness of abortion. The reason murder is wrong according to Marquis, is that it deprives a person of the value of his or her future.<sup>108</sup> This can apply to a fetus: if not aborted, it can be assumed to have a future like ours that is also of value.

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<sup>105</sup> Sherwin 2006:12-13

<sup>106</sup> Mackinnon 2004:171

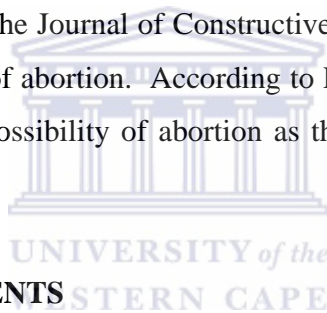
<sup>107</sup> Wright 1999:352-361

<sup>108</sup> Marquis 2006:605

The primary thing that makes killing wrong is neither its effect on the murderer nor its effect on the victim's friends and relatives, but its effect on the victim.<sup>109</sup> The loss of one's life is one of the greatest losses one can suffer. This is because it deprives one of all the experiences, activities, projects and enjoyments that would otherwise have constituted one's future. Therefore, killing someone is wrong, primarily because killing inflicts the greatest possible losses on the victim. These activities, experiences, projects and enjoyments are valuable for their own sakes. Some parts of my future are not valued by me now, but will come to be valued by me as I grow older and as my values and capacities change.

According to Marquis, "when I am killed, I am deprived both of what I now value which would have been part of my future personal life, but also what I would come to value. Therefore, when I die, I am deprived of all of the value of my future. Inflicting this loss on me is ultimately what makes killing me wrong."<sup>110</sup>

Miranda Pillay's article in the *Journal of Constructive Theology*, gave an official view of the Anglican Church on the issue of abortion. According to Pillay, "The Anglican perspective is that they (Anglicans) accept the possibility of abortion as the lesser of the two evils in certain circumstances."<sup>111</sup>



### 3.4 PRO-CHOICE ARGUMENTS

#### THE FETUS AS HUMAN BEING

Judith Thomson argues that most opposition to abortion relies on the premise that the fetus is a human being, a person, from the moment of conception. The premise is argued for but as pro-choice abortionists think, not well.<sup>112</sup> They gave for example the most common argument. We are asked to notice that the development of a human being from conception through birth into childhood is continuous, then it is said that to draw a line, to choose a point in this development and say "before this point the thing is not a person, after this point it is a person" is to make an arbitrary choice, a choice for which in the nature of things no good reason can be given. It is

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<sup>109</sup> Marquis 2006:605

<sup>110</sup> Marquis 2006:605

<sup>111</sup> Pillay 2006:83

<sup>112</sup> Thomson 2004:201

concluded that the fetus is or anyway that we had better say it is, a person from the moment of conception. But this conclusion does not follow.

Similar things might be said about the development of an acorn into an oak tree, and it does not follow that acorns are oak trees, or that we had better say they are. Arguments of this form are sometimes called “slippery slope arguments” – the phrase is perhaps self-explanatory. Thomson remarks that it is dismaying that opponents of abortion rely on them so heavily and uncritically.<sup>113</sup> She agreed however that the prospects for “drawing a line” in the development of the fetus look dim. She thinks also that we shall probably have to agree that the fetus has already become a human person well before birth. Indeed, it comes as a surprise when one first learns how early in its life it begins to acquire human characteristics. By the tenth week, for example, it already has a face, arms and legs, fingers and toes, it has internal organs and brain activity is detectable. On the other hand, Thomson thinks that the premise that the fetus is not a person from the moment of conception is false.<sup>114</sup>

Naomi Wolf argues that war is legal; it is sometimes even necessary. Letting the dying die in peace is often legal and sometimes even necessary. Abortion should be legal; it is sometimes even necessary. Sometimes the mother must be able to decide that the fetus, in its full humanity, must die. But it is never right to minimise the value of the lives involved or the sacrifice incurred in letting them go.<sup>115</sup>

How precisely are we supposed to get from there to the conclusion that abortion is morally impermissible? Opponents of abortion commonly spend most of their time establishing that the fetus is a person, and hardly any time explaining the step from there to the impermissibility of abortion. Perhaps they think that the step is so simple and obvious to require much comment.

## RIGHT TO LIFE VERSUS RIGHT TO DECIDE

Many of those who defend abortion rely on the premise that the fetus is not a person, but only a bit of tissue that will become a person at birth; and why pay out more arguments than you have to? Whatever the explanation, Mackinnon suggests that the step they take is neither easy

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<sup>113</sup> Thomson 2004:127

<sup>114</sup> Thomson 2004:127ff

<sup>115</sup> Wolf 2001:187



nor obvious, that it calls for closer examination than it is commonly given, and that when we do give it this closer examination we shall feel inclined to reject it.<sup>116</sup>

She proposes then that we grant that the fetus is a person from the moment of conception. How does the argument go from here? She develops more or less the following argument: Every person has a right to life. So the fetus has a right to life. No doubt the mother has a right to decide what shall happen in and to her body; everyone would grant that. But surely a person's right to life is stronger and more stringent than the mother's right to decide what happens in and to her body, and so outweighs it. So the fetus may not be killed; an abortion may not be performed. It sounds plausible.<sup>117</sup>

The most familiar argument here is the following. We are told that performing the abortion would be directly killing the child, whereas doing nothing would not be killing the mother, but only letting her die. Moreover, in killing the child, one would be killing an innocent person, for the child has committed no crime, and is not aiming at his mother's death. And then there are a variety of ways in which this might be continued. But as direct killing an innocent person is always and absolutely impermissible, an abortion may not be performed. Or, as directly killing an innocent person is murder, and murder is always and absolutely impermissible, an abortion may not be performed.<sup>118</sup>

Some people seem to have thought that these are not further premises which must be added if the conclusion is to be reached, but that they follow from the very fact that an innocent person has a right to life.<sup>119</sup> This seems to Thomson to be a mistake, and perhaps the simplest way to show this is to bring out that while we must certainly grant that innocent persons have a right to life, these, in truth, are all false.<sup>120</sup> Consider the following example. If directly killing an innocent person is murder, and thus is impermissible, then the mother's directly killing the innocent person inside her is murder, and thus is impermissible. But it cannot seriously be thought to be murder if the mother performs an abortion on herself to save her life. It cannot seriously be suggested that she must refrain; that she must sit passively by and wait for her death.

According to Mackinnon, the main focus of attention in writings on abortion has been on what a third party may or may not do in answer to a request from a woman for an abortion. This

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<sup>116</sup> Mackinnon 2004:174

<sup>117</sup> Mackinnon 2004:174

<sup>118</sup> Mackinnon 2004:175

<sup>119</sup> Noonan 2006:175

<sup>120</sup> Thomson 2004:129



is in a way understandable. Things being as they are, there is not much a woman can safely do to abort herself. So the question asked is what a third party may do, and the question about what the mother may do (if it is mentioned at all) is deduced, almost as an afterthought, from what it is concluded that third parties may do. But it seems to her that treating the matter this way is to refuse to grant to the mother that very status of person which is so firmly insisted on for the fetus. For we cannot simply read off what a person may do from what a third party may do.<sup>121</sup>

For Mackinnon, we should really ask what is it that says “no one may choose” in the face of the fact that the body that houses the child is the mother’s body. It may be simply a failure to appreciate this fact. But it may be something more interesting, namely the sense that one has a right to refuse to lay hands on people, even where it would be just and fair to do so, even where justice seems to require that somebody do so.

According to Mackinnon, justice might call for somebody to get Smith’s coat back from Jones, and yet you have a right to refuse to be the one to lay hands on Jones, a right to refuse to do physical violence to him. This, she thinks, must be granted. But then what should be said is not “no one may choose,” but only “I cannot choose,” and indeed not even this, but “I will not act,” leaving it open that somebody else can or should, and in particular that anyone in a position of authority, with the job of securing people’s rights, both can and should.<sup>122</sup>

Following Mackinnon's example, suppose that in some views of human life the mother’s body is only on loan to her, the loan not being one which gives her any prior claim to it. One who held this view might well think it impartial to say “I cannot choose”. But Mackinnon shall simply ignore this possibility. Her view is that if a human being has any just, prior claim to anything at all, she has just, prior claim to her own body. Pro-abortionists support the argument that the woman has a right to decide what happens in and to her body.

Mackinnon asks what it entails: to have a right to life. In some views, having a right to life includes having a right to be given at least the bare minimum one needs for continued life.<sup>123</sup> She gives an example: suppose that what in fact is the bare minimum a man needs for continued life is something he has no right at all to be given. If I am sick unto death, and the only thing that will save my life is the touch of Henry Fonda’s cool hand on my fevered brow, then, all the same, I have no *right* to be given the touch of Henry Fonda’s cool hand on my fevered brow. It would

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<sup>121</sup> Mackinnon 2004:174

<sup>122</sup> Mackinnon 2004:176

<sup>123</sup> Mackinnon 2004:176

be frightfully nice of him to fly in from the West Coast to provide it. It would be less nice, though no doubt well meant, if my friends flew out to the West Coast and carried Henry Fonda back with them. But I have no right at all against anybody that he should do this for me.<sup>124</sup>

The difficulty Mackinnon points to here is not peculiar to the right of life. It reappears in connection with all the other natural rights; and it is something which an adequate account of rights must deal with. For present purposes it is enough just to draw attention to it. But she would stress that she is not arguing that people do not have a right to life – quite to the contrary, it seems to her that the primary control we must place on the acceptability of an account of rights is that it should turn out in that account to be a truth that all persons have a right to life.<sup>125</sup>

It seems that the argument we are looking at can establish at most that there are some cases in which the unborn person has a right to the use of its mother's body, and therefore some cases in which abortion is unjust killing. There is room for much discussion and argument as to precisely which, if any. But we should sidestep this issue and leaving it open, for at any rate the argument certainly does not establish that all abortion is unjust killing.

#### GOOD OR MINIMALLY DECENT SAMARITAN

Barbara Mackinnon distinguished between two kinds of Samaritan: the *Good Samaritan* and what she calls the *Minimally Decent Samaritan*. As we read from the story of the Good Samaritan, the Good Samaritan went out of his own way, at some cost to him, to help one in need of it.<sup>126</sup> We are not told what the options were, that is, whether or not the priest and the Levite could have helped by doing less than the Good Samaritan did, but assuming they could have, then the fact they did nothing at all shows they were not even Minimally Decent Samaritans, not because they were not Samaritans, but because they were not even minimally decent.

Mackinnon expresses her point most clearly in the story of Kitty Genovese who was murdered while thirty-eight people watched or listened, and did nothing at all to help her. A Good Samaritan would have rushed out to give direct assistance against the murderer. Or perhaps we had better allow that it would have been a splendid Samaritan who did this, on the ground that it would have involved a risk of death for him. But the thirty-eight not only did not

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<sup>124</sup> Mackinnon 2004:177

<sup>125</sup> Mackinnon 2004:177

<sup>126</sup> Lk 10:30-35

do this, they did not even trouble to pick up a phone to call the police. Minimally Decent Samaritans would call for doing at least that and their not having done it was monstrous.<sup>127</sup>

After telling the story of the Good Samaritan, Jesus said, “Go and do thou likewise.” Perhaps He meant that we are morally required to act as the Good Samaritan did. Perhaps He was urging people to do more than is morally required of them. At all events it seems plain that it was not morally required of any of the thirty-eight to rush out to give direct assistance at the risk of their own life, and that it is not morally required of anyone that he give long stretches of his life – nine years or nine months - to sustain the life of a person who has no special right to demand it.

Indeed, with one rather striking class of exception, no one in any country in the world is legally required to do anywhere near as much as this for anyone else. The class of exceptions is obvious. Mackinnon’s main concern here is not the state of law in respect to abortion, but it is worth drawing attention to the fact that in no country in the world is any man compelled by law to be even in Minimally Decent Samaritan to any person.<sup>128</sup> There is no law under which charges could be brought against the thirty-eight who stood by while Kitty Genovese died.

By contrast, in most countries, women are not compelled by law to be merely Minimally Decent Samaritans, but Good Samaritans to unborn persons inside them. This does not by itself settle anything one way or the other, because it may well be argued that there should be laws in the world, as there are in many European countries, compelling at least Minimally Decent Samaritanism. But it does show that there is a gross injustice in the existing state of the law.<sup>129</sup> And it shows also that the groups currently working against liberalization of abortion laws, in fact working towards having it declared unconstitutional for a state to permit abortion, had better start working for the adoption of Good Samaritan laws generally, or earn the charge that they are acting in bad faith.

Mackinnon concludes that Minimally Decent Samaritan laws would be one thing, Good Samaritan laws quite another, and in fact highly improper.<sup>130</sup> But we are not here concerned with the law. What we should ask is not whether anybody should be compelled by law to be a Good

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<sup>127</sup> Mackinnon 2004:181

<sup>128</sup> Mackinnon 2004:181

<sup>129</sup> Mackinnon 2004:181

<sup>130</sup> Mackinnon 2004:181

Samaritan, but whether we must accede to a situation in which somebody is being compelled by nature, perhaps, to be a Good Samaritan.

## REASONING FROM CONSEQUENCE OR UTILITY

Many arguments that focus on something other than the moral status of the fetus are consequentialist in nature and broadly utilitarian.<sup>131</sup> Arguments for abortion often cite the bad consequences that may result from a continued pregnancy for example, the loss of a job or other opportunities for the pregnant woman, the suffering of the future child, and the burden of caring for the child under particular circumstances, and so on. Some arguments against abortion also cite the loss of happiness and the future contributions of the being that it aborted.<sup>132</sup>

According to act utilitarian reasoning, each case or action stands on its own, so to speak. Its own consequences determine whether it is good or bad, better or worse than other alternatives.<sup>133</sup> Act utilitarians believe that the people making the abortion decision must consider the likely consequences of the alternative actions, in other words, having or not having an abortion (as well as such considerations as where and when).<sup>134</sup>

Among the kinds of consequences to consider are health risks and benefits, positive mental psychological consequences, and financial and social aspects of the alternative choices. For example, a pregnant woman should consider questions such as these: what would be the effect on her of having the child versus ending the pregnancy? What are the consequences to any others affected? Would the child, if born, be likely to have a happy or unhappy life and how would one determine this? How would an abortion or the child's birth affect her family, other children, the father, and the grandparents and so on?

Notice that the issue of whether the fetus is a person or a human being is not among the things to consider when arguing from this type of consequentialist perspective. Abortion at a later stage of pregnancy might have different effects on people than that at an earlier stage, and it might also have different effects on the fetus in terms of whether it might experience pain. It is the effects on the mother, child and others that matter in utilitarian thinking, not the moral status

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<sup>131</sup> Mackinnon 2004:165

<sup>132</sup> Mackinnon 2004:165

<sup>133</sup> Mackinnon 2004:165

<sup>134</sup> Mackinnon 2004:165

of the fetus (what kind of value it has) or its ontological status (what kind of being it is said to be) at that stage or development.<sup>135</sup>

Critics of utilitarian reasoning generally object to its seeming disregard of rights. They may point out that if we do not take the right to life seriously, then utilitarian reasoning may condone the taking of any life if the overall consequences of doing so are good.<sup>136</sup> Thus some critics might argue that the moral status of the fetus, such as whether it is the kind of being that has a right to life, is quite relevant to moral decisions about abortion. Others would insist that we address the matter of the rights of the pregnant woman (or others) and the problem of conflicts of rights.

## ARGUMENTS FROM RIGHTS

Some arguments about abortion do consider the rights of persons but still maintain that the moral status of the fetus is irrelevant.<sup>137</sup> It is irrelevant in the sense that whether or not we think of the fetus as a person with full moral rights is not crucial for decisions about the morality of abortion.

Judith Thomson does assume for the purpose of argument that the fetus is a person from early on in pregnancy. But her conclusion is that abortion is still justified, even if the fetus is a person with a right to life.<sup>138</sup> She also assumes it is permissible if the fetus is not a person. This is why the argument does not turn on what we say about the moral status of the fetus.

The question she poses is whether the pregnant woman has an obligation to sustain the life of the fetus through providing it with the means of life. To have us think about this, she asks us to consider an imaginary scenario. Suppose, she says that you wake up one morning and find yourself attached through various medical tubing's to a famous violinist. You find out that during the night you have been kidnapped and hooked to this violinist. The violinist has severe kidney problems, and the only way that his life can be saved is through being hooked up to another person so that the other person's kidneys will do the job of purifying his blood for some period of time until his own kidneys have recovered.

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<sup>135</sup> Mackinnon 2004:165

<sup>136</sup> Mackinnon 2004:165

<sup>137</sup> Mackinnon 2004:165

<sup>138</sup> Thomson 2004:127-135

The question Thomson poses is this: would you be morally permitted or justified in “unplugging” the violinist, even though to do so would result in his death? Thomson argues that you would be justified, in particular, because you had not consented to save the violinist.<sup>139</sup> The point of this example applies most obviously to cases of rape. However, Thomson means it to apply more widely and she uses other analogies to help make her point. One would only have a responsibility to save the violinist (or nurture the fetus) if one had agreed to do so. The consent that Thomson has in mind is a deliberate and planned choice.

She argues that although it would be generous of you to save the life of the violinist (or the fetus); you are not obligated to do so. Her point is that no one has a right to use your body, even to save his own life, unless you give him that right. Such views are consistent with a position that stresses that women are persons and have a right to bodily integrity as do other people and that as people they ought not to be used against their will for whatever purposes by others, even noble purposes such as the nurturing of children.

Critics of this argument point out that it may apply at most to cases of rape, for in some other cases one might be said to implicitly consent to a pregnancy if one did what one knew might result in it. One response to this is that we do not always consider a person to have consented to chance consequences of their actions.<sup>140</sup>

The person’s rights and utilitarian arguments are examples of arguments about abortion that do not depend on what we say about the moral status of the fetus, but other arguments hold this issue to be crucial. Some arguments for the moral permissibility of abortion as well as some against it rely in crucial ways on what is said about the fetus.

### **3.5 ABORTION AND A CATHOLIC VISION**

In full awareness of Catholic tradition and transient cultural facets, one must confront all the realities of the situation, including the impact of the environment, the social group and the Church. But aside from the noteworthy traditional legacy, for which we can be grateful, I agree with Noonan that Catholic scholars owe it to all interested readers to be justly critical of those elements of tradition that would divert from sincere and courageous thinking. Noonan argues that

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<sup>139</sup> Mackinnon 2004:166

<sup>140</sup> Mackinnon 2004:166

a discriminating Catholic of the post-conciliar period can differentiate irreformable dogmas from doctrinal teachings open to further questioning and more or less substantial changes. Discussions pertaining to abortion indicate a wide range of developments, shifts of emphasis and sharp distinctions which were not always obvious in the past.<sup>141</sup>

The Catholic theology of today is one of discernment, of critical searching for truth in dialogue with the modern world, especially with the leaders in related disciplines. Since at least the seventies (after the conciliar process) we have witnessed an increase in the publication of critical studies on the whole problem with numerous contributions from Catholic theologians, philosophers and physicians, such as John Paul II, Mc Cormick, Rahner and May.<sup>142</sup> Catholic moralists are no longer a monolithic block. The need for dialogue with the modern world and the new insights of medicine force them to reconsider closely a number of questions.

Broadly speaking, the Church's stance on abortion is accepted in Catholic scholarly circles. Writers however do differ in that some simply repeat teachings of previous Popes and the common formulations of manuals, while others think that the teaching of the church might be susceptible to gradual development through a process of refinement.<sup>143</sup> While attempting to point out cautiously what type of refinement might realistically be expected, we shall have to re-examine a few concepts.

Most Catholic theologians of the traditional school such as St. Thomas Aquinas, Clement of Alexandria, Minucius Felix, and John Chrysostom, and Bernard Haring, in maintaining that theology is confronted by a clear and unchangeable doctrine of the ordinary magisterium, would say that there remains only to explain clearly the reasons in support of the doctrine, and to discuss complicated cases which might be termed 'indirect' abortion.<sup>144</sup> According to the principle of double effect, the later can be justified in terms of a licit medical intervention for the mother's welfare. Of paramount importance, then is a clear statement of the reasons why abortion is considered intrinsically evil.<sup>145</sup>

My position on the malice of abortion is practically identical with that of Haring. In spite of the distinction between abortion and infanticide, he opposes the drawing of an artificial line of

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<sup>141</sup> Noonan 1970:123-145

<sup>142</sup> See John Paul II 1995b; Mc Cormick 1984; Rahner 1984 ; May 1977; and Haring 1972:95

<sup>143</sup> Haring 1972:96

<sup>144</sup> See Haring 1972:96.

<sup>145</sup> Haring 1972:96



moral judgment between a born and an unborn child. The child in the mother's womb is a live human person with practically equal rights before and after birth.<sup>146</sup>

A consensus has been reached that the dividing line cannot be clearly drawn in relation to viability. Not only can medical skill and knowledge progress markedly to extend viability to an earlier stage, but the real difference does not lie in whether or not the fetus can live outside the womb of the mother.<sup>147</sup> The fact that it cannot survive outside its natural habitat does not allow one to deprive it of the life-saving environment. Admittedly, there remain well grounded doubts as to the moment of 'ensoulment' animation or conception. Where earlier moralists spoke of 'ensoulment,' today's theologians prefer 'beginning of human life.'

In abortion, the following fundamental values are at stake, according to Bernard Haring:

(a) The recognition of the right of each human being to the most basic conditions of life and to life itself. (b) The protection of this right to live, especially by those who have cooperated with the creative love of God. (c) The preservation of a right understanding of motherhood. (d) The ethical standard of the physician as one who protects and cares for human life and never becomes an agent of its destruction.<sup>148</sup> The vigour of the argument derives from our belief in the dignity of each human person created in the image and likeness of God and in man's calling to universal brotherhood in mutual love, respect and justice.<sup>149</sup>

All these values come to a focal point and acquire special urgency in the family, in the relationship between mother and child, father and child. Human solidarity, the intimate dependency of the human person on the other's love and protection are never more strongly disclosed than during the nine months the embryo or fetus lives on the mother's bloodstream. The psychological and moral maturity of the mother, as mother, greatly affects her attitude towards the child she is bearing.<sup>150</sup>

Holy Scripture does not provide us with a clear-cut doctrine on all the questions and solutions pertaining to abortion. It does teach the basic values on which we ground our arguments: the dignity of the human being, protection of innocent life, the concept of parenthood, the commandment to love. All this becomes an urgent rule of love whereby the life of our neighbour can and must be protected. There is at least a probability that the word "pharmakeia"

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<sup>146</sup> Haring 1972:97

<sup>147</sup> Haring 1972:97

<sup>148</sup> Haring 1972:97-98

<sup>149</sup> Gaudium et Spes 1990:27

<sup>150</sup> Noonan 1970:98



which St. Paul includes in his catalogue of the fruits of self-indulgence,<sup>151</sup> condemns abortion along with any other use of drugs for magical or inimical intentions.

Whatever may be the evidence of the biblical texts, it is certain that ever since apostolic times Catholicism had taken a very severe stand against abortion, equating it with homicide.<sup>152</sup> Like infanticide, abortion is considered a direct transgression of the commandment to love one's neighbour. In speaking about abortion, the Fathers often called it parricide, thus showing that, in their view abortion added to the sin against life another sin: a sin against the fundamental relationship between parents and offspring.

According to Haring, the presupposition for condemning abortion as homicide or parricide was that the *in utero* life was believed to be a truly human life.<sup>153</sup> This held only to the extent that the embryo of the fetus could be considered a human person, a human being with an immortal soul. Even in the past, there was no definitive doctrine about the moment when the embryo became animated; what could be said was that already in the first weeks, it was a life-to-be, a human being, under the protection of the Giver of life.

Evidently, it should make a great difference in the moral judgment passed whether one considers the embryo or fetus as already endowed with a human life, thus possessing fully the status of a person, or only a tissue or living entity on the way to becoming a human being. As long as the common convictions within the culture strongly favoured the opinion of animation occurring in a later stage of fetal development, most theologians while still firmly condemning abortion in general, could think that there might be grave reasons in extraordinary cases that could justify the abortion of an 'unensouled' fetus. Many theologians did indeed express such opinions without being condemned by the Church.<sup>154</sup>

Since the first centuries, the Church has issued grave sanctions against those Christians who would dare commit such a crime as abortion. When moralists dealt with those cases which, in their opinion, did not involve the malice or evil which makes abortion so grievous a sin, they concluded that these extreme cases did not fall under the sanctions of the Church.<sup>155</sup>

It is interesting to consider an effort by the highest authority of the Catholic Church to legislate sanctions while ignoring this pointed dispute among the leading theologians. In the bull

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<sup>151</sup> Gal 5:19

<sup>152</sup> Haring 1972:358

<sup>153</sup> Haring 1972:358

<sup>154</sup> Haring 1972:100

<sup>155</sup> Haring 1972:99-100

Effraenatam, Sixtus V (October 29, 1588) decreed that all penalties of canon law and secular law be applied to all those committing abortion, whatever be the age of the fetus.<sup>156</sup> Absolution from excommunication was reserved to the Holy See. Even a therapeutic intervention seemed included, although the bull aimed directly at combating prostitution in Rome.

Traditional moral theology sharply distinguished direct from indirect abortion, condemning the first and condoning the latter. However, indirect abortion can be lawful only on condition that it is not an abortion in the moral sense, that is, that it does not bear the moral malice of abortion. Earlier moralists justifying 'indirect abortion' applied this teaching in one way or another to almost all cases where the chief and decisive intention was directed towards another exalted good such as the health and life of the mother. Depriving the fetus of life was then only the secondary effect of the intention and action; secondary in so far as it was not willed in itself, in accordance with the proportion between the risk to fetal life and the motives justifying the action.<sup>157</sup>

Faced with a multitude of people either unable to distinguish or else inclined to all too subtle distinctions, the pastoral solicitude of Pius XI and Pius XII led them to condemn vehemently any kind of direct abortion and to declare the absolute inviolability of life, allowing no exception.<sup>158</sup> One of the beneficial results was that Catholic gynaecologists, because of the necessity for extraordinary effort, made special contribution to the saving of life both of the mother and of the fetus.<sup>159</sup>

According to Kramman, the question of what constitutes direct and indirect abortion was not settled in Catholic moral theology. The standard cases of ectopic pregnancy and of a cancerous uterus found approval by the majority of Catholic moralists.<sup>160</sup> The physician was surely allowed to perform all the medically accepted operations with the standard procedures in so far as they appeared necessary and urgent to remedy an acute, hazardous, morbid condition of the expectant mother, even if these medical interventions entailed a probable or even certain danger to the fetal life as an undesired and indirect consequence. The condition was always that no real probability existed to save both the mother and the unborn child.

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<sup>156</sup> Haring 1972:100

<sup>157</sup> Noonan 1970:107

<sup>158</sup> Pius XI 1951:262-265

<sup>159</sup> Pius XII 1951:838

<sup>160</sup> Kramman 1966:211

The distinction between 'direct' and 'indirect' abortion has sometimes resulted in mechanical or too literal applications.<sup>161</sup> Kramman reports such a case of a gynaecologist who tells of a typical case: He was once called upon to perform an operation on a woman in the fourth month of pregnancy, to remove a benign uterine tumour. On the womb, there were numerous very thin and fragile varicose veins which bled profusely, and attempts to suture them only aggravated the bleeding. Therefore, in order to save the woman from bleeding to death, he opened the womb and removed the fetus. Thereupon the uterus contracted, the bleeding ceased, and the woman's life was saved. He was proud of what he had achieved, since the uterus of this woman, who was still childless, was undamaged and she could bear other children. But he had to find out later from a noted moralist that although he had indeed acted in good faith, what he had done was in his eyes, objectively wrong.<sup>162</sup>

He would have been allowed to remove the bleeding uterus with the fetus itself, he said, but was not permitted to interrupt the pregnancy while leaving the womb intact. He was informed that his intervention constituted an immoral termination of pregnancy, even though the purpose was to save the mother, whereas the other way would have been a lawful direct intention and action to save life, as in the case of cancerous uterus. For him, preservation of the women's fertility and in some cases, preservation of the marriage itself, played no decisive role.<sup>163</sup>

Kramman's judgment of a similar case would follow a line of reasoning quite different from that of the moralist mentioned. The malice of abortion is an attack on the right of the fetus to live. Since the doctor in this situation can determine with great moral certainty that there is no chance for both the mother and the fetus to survive without his 'direct' intervention, he accepts the only chance to protect and serve life which Divine Providence has left to him. He saves the life of the mother while he does not truly deprive the fetus of its right to live since it could not possibly survive in the event of the doctor's failure to save the mother's life. Moreover, the preservation of the mother's fertility is an additional service to life.

Morally speaking, abortion would designate all cases bearing the characteristic malice which justifies our severe condemnation of it. Practically, this solution would not go much further than the casuistic of those moralists who undertook the problem only with the principle of

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<sup>161</sup> Kramman 1966:211-212

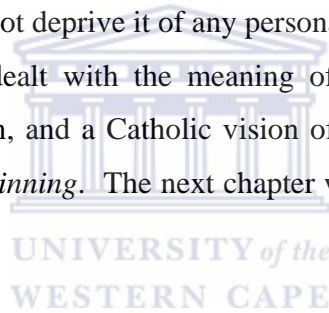
<sup>162</sup> Kramman 1966:212

<sup>163</sup> Kramman 1966:212

double effect and indirect action, but Kramman's way of arguing seems to be at least less artificial.

Kramman does not; however deny the value of common distinctions of 'direct' and 'indirect' abortion. They allow, for example, a quite reasonable solution in the case of ectopic pregnancy. The reason for terminating a pregnancy cannot be the fetus as such, but only a dangerous development such as pathological pregnancy in the fallopian tube. But even in this case, his way of arguing seems to be simpler and more persuasive. The physician should do his best to preserve the fetus in the case of ectopic conception but as soon as it becomes certain as is morally the case that intervention is mandatory to save the mother, and there is no chance to save both by waiting, the intervention does not truly deprive the fetus of the right to live, since it has already no chance to survive.<sup>164</sup> The fact that the biological death occurs some days earlier than if the physician allowed both to die does no harm to the right of the fetus since this very slight shortening of fetal existence does not deprive it of any personal activity.

In this chapter we have dealt with the meaning of abortion, pro-life and pro-choice arguments on the issue of abortion, and a Catholic vision of it. All these arguments deal with human life at its early stage or *beginning*. The next chapter will deal with Euthanasia, i.e. life at its *ending*.



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<sup>164</sup> Kramman 1966:213

## CHAPTER FOUR

### EUTHANASIA

Euthanasia can be seen as an easy death without severe suffering induced by an external person, or it stands for mercy killing for the purpose of putting an end to extreme suffering, perhaps for many years of a miserable life, which could impose too heavy a burden on the patient's family or on the society due to a long time illness.

#### 4.1 MEANING AND TYPES OF EUTHANASIA

The term euthanasia has Greek roots and literally means "good death."<sup>165</sup> While the term itself implies that there can be a good death, in itself it does not tell us when or under what conditions death is good. Is a good death one that comes suddenly or after some time to think about and prepare for it? Is it one that takes place at home and in familiar surroundings or one that occurs in a medical facility? Is it one that we know is coming and over which we have control or one that comes on us without notice? We usually think of life as a good, so the more of it the better. But we also know that in some conditions life is difficult and that some people have judged it too painful to continue.

Construing euthanasia from the above meaning, narrowly speaking, some philosophers have taken it to be equivalent of killing. Since allowing someone to die does not involve killing, allowing dying would not actually be an act of euthanasia at all. By this account, then, there are acts of allowing dying, which may be moral, and acts of euthanasia, which are always wrong.<sup>166</sup> Other philosophers interpret the meaning of euthanasia more broadly. For them, euthanasia includes not only acts of killing but also acts of allowing to die.<sup>167</sup> In other words, euthanasia can take an active or passive form. Active euthanasia refers to the act of painlessly putting to death persons suffering from incurable conditions or diseases. It is an action taken for the purpose of causing or hastening death. Injecting a lethal dosage of medication into a terminally ill patient would constitute active euthanasia. Passive euthanasia, in contrast refers to any act of allowing a

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<sup>165</sup> Mackinnon 2004:134

<sup>166</sup> Olen, Barry & Van Camp 2005:171

<sup>167</sup> Olen, Barry & Van Camp 2005:171

patient to die.<sup>168</sup> Not providing a terminally ill patient the needed antibiotics to survive pneumonia would be an example of passive euthanasia.

In the Catholic theology, euthanasia means any action committed or omitted for the purpose of causing or hastening the death of a human being after birth, allegedly for the purpose of ending the person's suffering.<sup>169</sup> The Vatican's Declaration on Euthanasia states: "By euthanasia is understood an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated".<sup>170</sup>

In other words, euthanasia is a form of killing regardless of the motives of the person committing the act. Euthanasia or mercy killing is the direct killing of the incurably sick, be it at their own request, or be it at the request of the legal representatives in the case of incurables who are incapable of deciding for themselves, e.g. infants and mental defectives.<sup>171</sup>

Catholic Church teaching defines euthanasia as "an action or omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated."<sup>172</sup>

The Hemlock Society, Concern for the Dying and the Society for the Right to Die are three euthanasia advocacy groups promoting their cause in the United States. Public debate on the issue is often confused by authors who lump together under "euthanasia" the foregoing of useless or disproportionately burdensome treatment (pulling the plug or passive euthanasia) with intentional killing and physician-assisted suicide (voluntary active euthanasia).

Joseph Fletcher, an Episcopalian clergyman has long been a champion of euthanasia. He holds "that there are two basic forms or types of euthanasia, direct or positive and indirect or negative. The first consists of direct actions or acts of commission, designed to terminate the life of an individual for humane reasons. The second consists in doing nothing to keep a person alive, although means are available for doing so. It consists in other words, in acts of omission".<sup>173</sup>

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<sup>168</sup> Olen, Barry & Van Camp 2005:171

<sup>169</sup> Clowes, B 1997:109

<sup>170</sup> Clowes, B 1997:109

<sup>171</sup> Dedek 1972:119-141

<sup>172</sup> Bohr 1999:314

<sup>173</sup> May 1977:134

## 4.2 ACTIVE VERSUS PASSIVE EUTHANASIA

As will already be evident, a crucial conceptual issue that arises in discussions of euthanasia concerns the difference between active and passive euthanasia. The distinction between active and passive euthanasia is thought to be crucial for medical ethics. The idea is that it is permissible, at least in some cases, to withhold treatment and allow a patient to die, but it is never permissible to take any direct action designed to kill the patient. This doctrine seems to be accepted by most doctors and it is endorsed in a statement adopted by the House of Delegates of the American Medical Association on December 4th 1973.<sup>174</sup>

Active euthanasia is using certain death causing means to bring about or cause the death of a person. In the past it used to be called “mercy killing.”<sup>175</sup> Drugs are the most common means. Rather than letting a person die, these means are used actually to kill the person. This is generally regarded as much more problematic and generally prohibited. Passive euthanasia refers to withholding or withdrawing certain treatment and letting a patient die. It is now a common practice and is not prohibited by law. Most of the time this is done at the request of the patient or the patient’s family. However, in some cases doctors have done this unilaterally either without consulting patients or their family or even against their wishes.<sup>176</sup> These reasons given in either case were generally that such treatment would not extend the patient’s life for long or that the patient’s life would not be worth lengthening such when they were not expected to regain consciousness.

James Rachels argues that the distinction between killing and letting die, so regularly employed in discussions of active versus passive euthanasia, is a faulty one.<sup>177</sup> Rachels set out some of the relevant arguments, and urge doctors to reconsider their views on this matter.

To begin with a familiar type of situation, a patient who is dying of incurable cancer of the throat is in terrible pain, which can no longer be satisfactorily alleviated. He is certain to die within a few days, even if present treatment continued, but he does not want to go on living for those days since the pain is unbearable. So he asked the doctor for an end to it and his family joins in the request.

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<sup>174</sup> Rachels 2006:319 (see Reynolds 2006).

<sup>175</sup> Mackinnon 2004:135

<sup>176</sup> Mackinnon 2004:134

<sup>177</sup> Rachels 2006:319



Suppose the doctor agrees to withhold treatment as the conventional doctrine says he may. The justification for his doing so is that the patient is in terrible agony, and since he is going to die anyway, it would be wrong to prolong his suffering needlessly. However, James Rachels calls attention to the irony that if one simply withholds treatment it may take the patient longer to die, and so he may suffer more than he would if more direct action were taken and a lethal injection given. This fact provides strong reason for thinking that, once the initial decision not to prolong his agony has been made; active euthanasia is actually preferable to passive euthanasia, rather than the reverse.<sup>178</sup>

To say otherwise is to endorse the option that leads to more suffering rather than less, and is contrary to the humanitarian impulse that prompts the decision not to prolong his life in the first place. Rachels pointed out that “the process of being allowed to die can be relatively slow and painful, whereas being given a lethal injection is relatively quick and painless.”<sup>179</sup> For example, in the United States about one in 600 babies are born with Down’s syndrome. Most of these babies are otherwise healthy - that is, with only the usual paediatric care, they will proceed to an otherwise normal infancy. Some, however, are born with congenital defects such as intestinal obstructions that require operations if they are to live. Sometimes, the parents and the doctor will decide not to operate, and let the infant die. Anthony Shaw describes what happens then: “... when surgery is denied (the doctor) must try to keep the infant from suffering while natural forces sap the baby’s life away. As a surgeon whose natural inclination is to use the scalpel to fight off death, standing by and watching a salvageable baby die is the most emotionally exhausting experience I know. It is easy at a conference, in a theoretical discussion, to decide that such infants should be allowed to die. It is altogether different to stand by in the nursery and watch as dehydration and infection wither a tiny being over hours and days. This is a terrible ordeal for me and the hospital staff - much more so that for the parents who never set foot in the nursery.”<sup>180</sup>

I can understand why some people are opposed to all euthanasia, and insist that such infants must be allowed to live. I think I can also understand why others favour destroying these babies quickly and painlessly. But why should anyone favour letting “dehydration and infection wither a tiny being over hours and days?” The doctrine that says that a baby may be allowed to

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<sup>178</sup> Rachels 2006:319

<sup>179</sup> Rachels 2006:319-320

<sup>180</sup> Shaw 1972:54



dehydrate and wither, but may not be given an injection that would end its life without suffering, seems so patently cruel as to require no further refutation.

One reason why so many people think that there is an important moral difference between active and passive euthanasia is that they think killing someone is morally worse than letting someone die.<sup>181</sup> But is it? Is killing, in itself, worse than letting die? To investigate this issue, Rachels presents two cases that are exactly alike except that one involves killing whereas the other involves letting someone die. Then it can be asked whether this difference makes any difference to the moral assessments. It is important that the cases be exactly alike, except for this one difference, since otherwise one cannot be confident that it is this difference and not some other that accounts for any variation in the assessments of the two cases.

In the first, Smith stands to gain a large inheritance if anything should happen to his six-year old cousin. One evening while the child is taking his bath, Smith sneaks into the bathroom and drowns the child, and then arranges things so that it will look like an accident.

In the second, Jones also stands to gain if anything should happen to his six-year old cousin. Like Smith, Jones sneaks in planning to drown the child in his bath. However, just as he enters the bathroom Jones see the child slip and hits his head, and fall face down in the water. Jones is delighted; he stands by, ready to push the child's head back under if it is necessary, but it is not necessary. With only a little thrashing about, the child drowns all by himself accidentally, as Jones watches and does nothing.

Now Smith killed the child, whereas Jones merely let the child die. That is the only difference between them. Did either man behave better, from a moral point of view? If the difference between killing and letting die were in itself a morally important matter, one should say that Jones's behaviour was less reprehensible than Smith's. But does one really want to say that? In the first place, both men acted from the same motive, personal gain, and both had exactly the same end in view when they acted. It may be inferred from Smith's conduct that he is a bad man, although that judgment may be withdrawn or modified if certain further facts are learned about him. For example, that he is mentally deranged. But would not the very same thing be inferred about Jones from his conduct? And would not the same further considerations also be relevant to any modification of this judgment?

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<sup>181</sup> Rachels 2006:320

Moreover, suppose Jones pleaded, in his own defence, “after all, I didn’t do anything except just stand there and watch the child drown. I didn’t kill him; I only let him die.” Again, if letting die were in itself less bad than killing, this defence should have at least some weight. But it does not. Such a defence can only be regarded as a grotesque pervasion of moral reasoning.<sup>182</sup> Morally speaking, it is no defence at all.

It may be pointed out quite properly that the cases of euthanasia with which doctors are concerned are not like this at all. They do not involve personal gain or the destruction of normal healthy children. Doctors are concerned only with cases in which the patient’s life is of no further use to him or her, in which the patient’s life has become or will soon become a terrible burden.

However, the point is the same in these cases: the bare difference between killing and letting die does not, in itself make a moral difference. If a doctor lets a patient die, for humane reasons, he/she is in the same moral position as if he/she had given the patient a lethal injection for humane reasons. If his decision was wrong; if, for example, the patient’s illness was in fact curable – the decision would be equally regrettable no matter which method was used to carry it out. And if the doctor’s decision was the right one, the method used is not in itself important.<sup>183</sup>

Most actual cases of killing are clearly terrible. Think, for example, of all the murders reported in the newspapers daily. On the other hand, one hardly ever hears of a case of letting die, except for the actions of doctors who are motivated by humanitarian reasons. So, one learns to think of killing as much worse than of letting die. But this does not mean that there is something about killing that makes it in itself worse than letting die, for it is not the bare difference between killing and letting die that makes the difference in these cases.<sup>184</sup> Rather, the other factors – the murderer’s motive of personal gain - for example, contrasted with the doctor’s humanitarian motivation, account for different reactions to the different cases.

Rachels argued that killing is not in itself any worse than letting die; if his contention is right, it follows that active euthanasia is not any worse than passive euthanasia.<sup>185</sup> What arguments can be given on the other side? The most common, he believes is the following:

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<sup>182</sup> Rachels 2006:321

<sup>183</sup> Rachels 2006:321

<sup>184</sup> Rachels 2006:321

<sup>185</sup> Rachels 2006:321

“The essential difference between active and passive euthanasia is that, in passive euthanasia, the doctor does not do anything to bring about the patient’s death. The doctor does nothing, and the patient dies of whatever ills already afflict him. In active euthanasia, however, the doctor does something to bring about the patient’s death; he /she kills or assists him/her to die. The doctor who gives the patient with cancer a lethal injection has himself caused his patient’s death; where as if he merely ceases treatment, the cancer is the cause of death”.<sup>186</sup>

The decision to let a patient die is subject to moral appraisal in the same way that a decision to kill him would be subject to moral appraisal: it may be assessed as wise or unwise, compassionate or sadistic, right or wrong. If a doctor deliberately let a patient die who was suffering from a routinely curable illness, the doctor would certainly be to blame for what he/she had done, just as he/she would be to blame if he/she had needlessly killed the patient.<sup>187</sup> Charges against him/her would then be appropriate. If so, it would be no defence at all for him/her to insist that he/she didn’t do anything. The doctor would have done something very serious indeed, for he/she let his/her patient die.

Fixing the cause of death may be very important from a legal point of view, for it may determine whether criminal charges are brought against the doctor. But Rachels does not think that this notion can be used to show a moral difference between active and passive euthanasia. The reason why it is considered bad to be the cause of someone’s death is regarded as a great evil - and it is.<sup>188</sup> However, if it has been decided that euthanasia – even passive euthanasia - is desirable in a given case, it has also been decided that in this instance death is no longer a bigger evil than the patient’s continued existence. And if this is true, the usual reason for not wanting to be the cause of someone’s death simply does not apply.

Finally, doctors may think that all of this is only of academic interest – the sort of thing that philosophers may worry about but that has no practical bearing on their own work. After all, doctors must be concerned about the legal consequences of what they do, and active euthanasia is clearly forbidden by the law. But even so, doctors should also be concerned with the fact that the law is forcing upon them a moral doctrine that may well be indefensible, and has a considerable effect on their practices. Of course, most doctors are not now in the position of being coerced in

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<sup>186</sup> Rachels 2006:321

<sup>187</sup> Rachels 2006:322

<sup>188</sup> Rachels 2006:322

this matter, for they do not regard themselves as merely going along with what the law requires.<sup>189</sup>

Rather, in statements such as the AMA policy statement that Rachels quoted, they are endorsing this doctrine as a central point of medical ethics. In that statement, active euthanasia is condemned not merely as illegal as contrary to that for which the medical profession stands for where as passive euthanasia is approved.<sup>190</sup> However, the proceeding considerations suggest that there is really no moral difference between the two, considered in them; there may be important moral differences in some cases in their consequences, but as Rachels pointed out, these differences may make active euthanasia, and not passive euthanasia, the morally preferable option.<sup>191</sup> Doctors may have to discriminate between active and passive euthanasia to satisfy the law, but they should not do any more than that. In particular, they should not give the distinction any added authority and weight by writing it into official statements of medical ethics.

### 4.3 ORDINARY VERSUS EXTRAORDINARY MEASURES

There is considerable disagreement about the usefulness of the distinction between ordinary and extraordinary measures of life support. People disagree first of all about the definitions of the terms.<sup>192</sup> In the following analysis we shall follow Mackinnon's argument. If the terms are defined primarily in terms of commonness and uncommonness, then surely it is difficult to see that this should make a moral difference. It would amount to saying that we ought to use those things that we commonly use and not use those we usually do not use.

However, if the terms are defined in relation to benefit and burden, they are by their nature morally relevant because these are value terms.<sup>193</sup> The primary difficulty with using this distinction is that it is difficult to measure and compare benefits and burdens. For instance, should financial cost to a family or society be part of the calculation? One danger with including the effect on others in the calculation, and not just the benefits and burdens to the patient herself,

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<sup>189</sup> Reynolds 2006:322

<sup>190</sup> Reynolds 2006:322

<sup>191</sup> Reynolds 2006:322

<sup>192</sup> Mackinnon 2004:144-145

<sup>193</sup> Mackinnon 2004:145

is that we might be inclined to say that some people should die because the burdens of caring for them are just too much.<sup>194</sup>

If we could determine what are ordinary and extraordinary measures in a particular case, we would be on the way to deciding whether or not there is at least some good reason to provide the measures. If we judge them ordinary, then they probably ought to be provided. If we judge them extraordinary, then they probably need not be provided.<sup>195</sup>

Every few years, a case of disputed life and death decisions regarding an infant seems to appear in the news. They are called Baby Doe cases to protect the families' privacy.<sup>196</sup> Those that have drawn the most criticism are cases like the one in which an infant born with Down's syndrome was left untreated and died. Down's syndrome is a genetic anomaly that causes mental retardation and sometimes physical problems as well.

In this case, the child had a repairable but life-threatening blockage between the stomach and the small intestines. The parents refused permission for surgery to repair the problem, and the doctors followed the wish of the parent and let the child die. Critics of this case protested that this surgery was simple and effective, and the infant, though retarded could lead a happy life.<sup>197</sup>

I do not know if the surgery was easy as the critics said but for me the parents' decision was so bad because they acted on the presumption that the child was useless and will not survive without them making any attempt to save the child's life. Even the doctors should not have followed the parents' wish since they knew that after the surgery there was a possibility of saving the child's life.

Refusing treatments in such cases has been interpreted as not using what would be considered ordinary means of life support. It is ordinary because the benefits to the patient would outweigh any burdens.<sup>198</sup> Such cases has been criticised for their "buck-passing" - shifting responsibility for the death to nature, as though in this situation but not elsewhere in medicine we would let nature take its course.<sup>199</sup> Because the infant is not able to express his wishes, these will always be cases of non-voluntary euthanasia.

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<sup>194</sup> Mackinnon 2004:145

<sup>195</sup> Mackinnon 2004:145

<sup>196</sup> Mackinnon 2004:145

<sup>197</sup> Mackinnon 2004:145

<sup>198</sup> Mackinnon 2004:145

<sup>199</sup> Mackinnon 2004:145

Although strong arguments can be made for treatment in such cases, in other cases knowing what is best is not so simple. Sometimes it is difficult to tell whether treatment is always in the baby's best interest. Some people insist that the primary decision makers should be the parents because they not only are most likely to have the infant's best interest at heart, but also will be the ones to provide care for the child.<sup>200</sup>

It must be taken into account that not all the parents have their child's interest at heart and some parents do not even border to take care of their infants too. So for them to be fearful, disappointed at the child's birth, or simply to disagree about what is best to do, seems morally wrong. They should give the child the opportunity to survive because only God knows the reason why the child was born with such condition.

A society has an interest in protecting and providing for its children and thus is obligated to intervene in cases of parental neglect or abuse.<sup>201</sup> However, just what constitutes neglect or abuse and what is reasonable parental decision making is far from clear. In addition, there are practical legal difficulties involved in treatment decision for children. What would be the best policy regarding ill newborns? Should the government require state child-abuse agencies to monitor treatment of newborns and withhold funds if the states do not comply?

Critics of such a policy believe that this would be an unwarranted state interference in legitimate medical decision making.<sup>202</sup> Obviously, more than medical decisions about diagnosis and prognosis are involved in such cases. These are judgements about what is best to do. These are value or moral judgements. Finding the best balance between the need to protect children and support parents in difficult and painful decision making remains a continuing problem.

The technological progress allowing the prolongation of the dying process in recent decades has given rise to a great apprehension about end of life decisions. Advanced directives are a legal response to this concern. The first "living will" legislation was passed in California in 1977 and spread to other states in the USA<sup>203</sup> One of the purposes of the federal Patient Self-Determination Act of 1990 was to encourage people to make out advance directives, which today take two forms; living wills and the durable power of attorney for health care.<sup>204</sup>

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<sup>200</sup> Mackinnon 2004:145

<sup>201</sup> Mackinnon 2004:146

<sup>202</sup> Mackinnon 2004:146

<sup>203</sup> Bohr 1999:313

<sup>204</sup> Bohr 1999:313

Both kinds of directives have been extensively criticised by critics such as Bohr. Living wills are said to be defective because a person cannot actually foresee what his or her wishes would be in some future medical situation.<sup>205</sup> Furthermore, the legal forms are often too general and ambiguous to be useful. The durable power of attorney designates a competent adult to make decisions for a person should he or she become unable to do so. Concerns arise here. Should the designated proxy have less and less involvement with the person as time goes by? The fear is also raised that a proxy might make decisions not in keeping with the patient's desires, values and principles.

Although it is ethically permissible to sign such documents, we must be aware that they do not solve all problems. Such directives, nevertheless must always uphold: "the fundamental right to life; the right to reasonable medical treatment as well as the right to refuse medical treatment that is disproportionate or extraordinary... and the importance of communication among patient, family and physicians".<sup>206</sup> The better provision is to make sure as best we can that our family and physician understand our moral convictions and attitude towards death.

Catholic theology has traditionally distinguished between ordinary and extraordinary means of preserving life and health. Ethically ordinary means are those which do not place excessive physical, mental, financial, or spiritual burdens on the patient or on his or her family. Ethically extraordinary means are those which do cause serious burdens.<sup>207</sup> What is a serious burden? Serious burden varies from situation to situation. It requires weighing all the values involved and exercising prudent judgment.<sup>208</sup>

The health care profession readily equates "ordinary means" with standard treatment and "extraordinary means" with experimental treatment, leading to much confusion in the theologians' use of these terms in the contemporary context. The Congregation for the Doctrine of the Faith in its 1980 "Declaration on Euthanasia" speaks instead of "proportionate means" and "disproportionate means."<sup>209</sup> Other contemporary moralists have suggested the use of the terms "benefit" and "burden", or "beneficial vs. non-beneficial."<sup>210</sup>

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<sup>205</sup> Bohr 1999:313

<sup>206</sup> Bohr 1999:313

<sup>207</sup> Bohr 1999:311

<sup>208</sup> Bohr 1999:311

<sup>209</sup> Bohr 1999:311

<sup>210</sup> Bohr 1999:311



#### 4.4 ARGUMENTS FOR VOLUNTARY EUTHANASIA

Voluntary active euthanasia means a deliberate intervention, by someone other than the person whose life is at stake, directly intended to end the life of the competent, terminally ill patient who makes a fully voluntary and persistent request for aid in dying.<sup>211</sup> In this section we shall follow the arguments of Hoose (1998) and Fletcher (1977).

A common way to think about euthanasia is to have a physician give a lethal injection to the patient who wants to die. ‘Mercy killing’ is commonly used in place of euthanasia to emphasize that such an act is directly intended as an act of kindness.<sup>212</sup>

Autonomy is the centrepiece in the moral defence of euthanasia. In health care, autonomy has a prominent place as the guiding principle for treating the patient as a person with values, goals, and limits. But this same freedom which preserves the patient’s right to refuse treatment is now being extended by advocates of euthanasia to include choosing death and the means to achieve it, even to the extent of eliciting the assistance of another if necessary and desired.<sup>213</sup>

When defenders of euthanasia appeal to autonomy, they mean that each person has a right to control his or her body and life, including the end of it, and so ought to be given the freedom to exercise this right. When autonomy is absolute, the sheer fact that a choice is ‘my’ choice becomes the sole right making characteristic of the choice. What counts is what the patient wants and judges to be a benefit or a value in his or her own life.<sup>214</sup> That is primary.

Autonomy underlies the familiar appeal to ‘death with dignity’ and the so called ‘right to die’ to justify euthanasia. According to this view, the right to die and death with dignity means that each of us should be able to determine at what time, in what way, and by whose hand we will die.<sup>215</sup> In other words, these expressions may be interpreted as something like the following: It’s my body; it’s my freedom; it’s my life; it’s my death. Let me have control.

Joseph Fletcher notes that “some moralists claim to see a moral difference between deciding to end a life by deliberately doing something and deciding to end a life by deliberately

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<sup>211</sup> Hoose 1998:278

<sup>212</sup> Hoose 1998:278

<sup>213</sup> Hoose 1998:279

<sup>214</sup> Hoose 1998:279

<sup>215</sup> Hoose 1998:279



not doing something.”<sup>216</sup> Such moralists endorse negative or indirect euthanasia and condemn positive or direct euthanasia. But Fletcher says, “This is morally evasive and disingenuous, inasmuch as the end or purpose of both negative and positive euthanasia is exactly the same. To contrive or bring about the patient’s death.”<sup>217</sup>

However, Fletcher does not build his case for euthanasia on the moral equivalence of deciding to end a life by deliberately doing something and by deliberately not doing something. Rather he builds his case by stressing (a) the right of moral man to control physical nature, (b) the primacy of the principle of proportionate good, and (c) the supremacy of such goods as personal integrity and dignity over the good of biological life. With respect to the first point, Fletcher insists on the “right of spiritual beings to use intelligent control over physical nature rather than to submit beastlike to its blind workings.”<sup>218</sup>

In his writings on euthanasia, Fletcher stresses that it is the end that justifies the means. He does not mean that any end can justify any means; rather, he means that we may rightfully choose to do evil or to affect a disvalue if there is a sufficient reason or proportionate good that will be served by doing so. “The priority of the end is paired with the principle of proportionate good. Any disvalue in the means must be outweighed by the value gained in the end.”<sup>219</sup>

For Fletcher, the third justifying element for euthanasia is the supremacy of such personal goods, that is, consciously experienceable goods, such as dignity and integrity. For him, these are the highest goods, incomparably superior to such impersonal and subhuman goods as physical life.<sup>220</sup>

Kohl, with whom Fletcher is in conversation, does not develop the relevance of the principle of proportionate good to the issue of euthanasia, but he stresses the supremacy of the human value of dignity in moral issues and he associates the right of moral man to dispose of his own bodily life in accordance with his own rational choices, and with the concept of dignity.<sup>221</sup> Kohl thus agrees with the other two presuppositions that underlie Fletcher’s defence of euthanasia.

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<sup>216</sup> Fletcher 1977:134

<sup>217</sup> Fletcher 1977:134

<sup>218</sup> Fletcher 1977:135

<sup>219</sup> Fletcher 1977:136

<sup>220</sup> Fletcher 1977:136

<sup>221</sup> Fletcher 1977:136

In his understanding of dignity, Kohl recognizes the ambiguity in the term and acknowledges that many oppose euthanasia on the grounds that it violates personal dignity. He believes that these opponents understand dignity as “an intrinsic characteristic of humans, connoting excellences that set human beings apart from other species.”<sup>222</sup>

#### 4.5 ARGUMENTS AGAINST VOLUNTARY EUTHANASIA

Charles Dougherty has made a compelling argument against euthanasia from the perspective of the common good. He argues that “there is a good for society as a whole beyond a good for each person.”<sup>223</sup> What we do in pursuing personal goals bears on the whole society. We call this good ‘the common good’. While it respects and serves the interests of individual persons, the common good ultimately upholds the collective good as more important than the good of any one individual.<sup>224</sup> But as long as we continue to envision society as a mass of individuals placed side by side, but without any mutual bonds, then we continue to miss our responsibility for the common good.

A commitment to the common good forces us to ask whether there are some things which we want for ourselves but which we ought not to pursue so that the good of the whole might better served. According to Hoose, to seek the common good, is to seek those actions and policies that would contribute to the total well being of persons and the community as a whole.<sup>225</sup> Our responsibility for the common good has implications for the way we analyse euthanasia. One is that we must move away from the individual perspective which analyses euthanasia as a private issue and move towards the societal perspective which analyses it as a social one.

Daniel Callahan has argued along these lines to claim that “permitting euthanasia would be ‘self-determination runs amok.’ It cannot properly be classified as a private matter of self-determination or as an autonomous act of managing one’s private affairs.”<sup>226</sup> Euthanasia is a social decision. It involves the one to be killed as well as the one doing the killing, and it requires a complying society to make it acceptable. Therefore, euthanasia must be assessed for its social impact on caring for the dying and on our general attitude towards life.

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<sup>222</sup> Fletcher 1977:136-137

<sup>223</sup> Dougherty 1993:151-166

<sup>224</sup> Hoose 1998:281

<sup>225</sup> Hoose 1998:281

<sup>226</sup> Callahan 1992:52-55

Autonomy must be understood within the limits of the social responsibilities for the common good. The vulnerable, those with serious dementia or depression who cannot speak for themselves or defend their values, may be especially at risk of being killed. Overall, the practice of euthanasia threatens to weaken the general prohibition against killing in society and so we end up valuing life less.<sup>227</sup>

Of the many serious objections that can be brought against the ethics of euthanasia, the following are the most important, according to May (1977). First, the ethics of euthanasia is a consequentiality ethics, according absolute priority to the principle of proportionate reason or good and holding that one may rightfully intend evil so that good may come about. As we shall see, a proportionate reason or good is needed to justify doing deeds that effect evil, but the proportionate good that serves as the end to be achieved does not suffice to render deeds good and right.<sup>228</sup> If we take the significance of our deeds seriously, as revelatory of our being and as shaping our dignity, we must conclude that if we directly willed or intend an evil, such as death, we show that we are willing to take on as part of our moral identity, the identity of evildoers.<sup>229</sup>

We may do this evil reluctantly, and be tempted to re-describe our act of killing, whether this be suicide or mercy killing, in terms of the intended results by saying that what we are doing is “showing compassion” or “preserving human dignity”.<sup>230</sup> But if the evil that is brought about by our deeds is an evil we directly intended, the acts in question are acts of killing and no re-description can conceal this reality.

Secondly, the ethics of euthanasia involves the weighing or commensurating of human goods and choosing some, for instance dignity or personal integrity, and rejecting or repudiating others, namely life itself. But no created human good is the summum bonum, the absolute good, and no created human good is evil.<sup>231</sup>

Those who justify suicide and mercy killing claim that we can rightfully choose death – an evil that is privative of the good of life, for the sake of the ‘higher’ or ‘greater’ good of dignity or integrity. They thus maintain that life as such is not a good that is worthy of human choice and they erect the goods of dignity and personal integrity into absolute goods, that is, goods

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<sup>227</sup> Hoose 1998:281

<sup>228</sup> May 1977:140

<sup>229</sup> May 1977:140

<sup>230</sup> May 1977:140-141

<sup>231</sup> May 1977:141

whose protection and preservation is so important that they can justify our repudiation of other basic human goods.<sup>232</sup>

This contention of the ethics of euthanasia, May argues, is untenable.<sup>233</sup> The various real “goods” that together make up the whole human good are all real goods of human beings, created participations in the goodness of God Himself, who alone is the supreme good or the *Summum Bonum*. It is because they are all real goods that they merit our love and respect. Each of these real human goods, including life itself, is worthy of human choice. A sound moral policy, reflecting a heart that is open to all that is good and worthwhile, requires us to love and respect all the real goods of human beings, of human persons. According to May, these goods are not comparable and cannot weigh one against another. To measure the good of dignity or of personal integrity against the good of life itself is like measuring the smile on a child’s face against the thrill of Newton in discovering the laws of gravity.<sup>234</sup> It is comparing the incomparable, weighing the unweighable.

Thirdly, the ethics of euthanasia, as articulated by Fletcher, betrays a false understanding of the human person. For them, man is not an indissoluble union of body and soul, he is the Cartesian ghost in a machine, for they regard man’s humanity as exhausted by his consciousness and rationality and his body and biological life as a sub-personal, subhuman component, part of a “world of nature” over which the rational and conscious agent has complete dominion. This view of man is incompatible with the Biblical Christian understanding of the human person as a special kind of animal, as the “body of his soul” and the “soul of his body”.<sup>235</sup>

The ethics of euthanasia is indeed, not new but it is a contemporary articulation of Stoic philosophy.<sup>236</sup> It is admirable in many ways, for it values the true human goods of compassion, mercy, freedom, and integrity; but it does not do full justice to the meaning of human existence and to the range of human values.

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<sup>232</sup> May 1977:141

<sup>233</sup> May 1977:141

<sup>234</sup> May 1977:142

<sup>235</sup> May 1977:142

<sup>236</sup> Bohr 1999:314

## 4.6 EUTHANASIA AND A CATHOLIC VISION

The fight against legalizing euthanasia becomes somewhat confused by the longstanding Roman Catholic tradition of allowing the withdrawal of extraordinary means of sustaining human life. Secular society, which does not recognise the Church's moral distinction between ordinary and extraordinary means, also looks upon the withdrawal of the latter as a form of euthanasia.<sup>237</sup> In 1957 Pope Pius XII spoke approvingly of families who bring pressure to bear upon the attending physician to remove the respirators so as to allow the patient, already virtually dead, to depart in peace.

The withdrawing of such life-support systems leads most probably to immediate death. Yet, the cessation of a no longer beneficial treatment is not killing but removing an artificial obstacle that impedes the natural death process. Withdrawing treatment in the words of the Vatican declaration, "is not the equivalent of suicide; on the contrary, it should be considered as an acceptance of the human condition, or a wish to avoid the application of a medical procedure disproportionate to the results that can be expected, or a desire not to impose excessive expense on the family or community."<sup>238</sup>

Catholic moralists today however are divided over the question of withholding artificial sustenance. Providing basic nutrition and hydration is an ethically ordinary means of preserving life, and as a general rule, must not ever be denied to the sick. Father Charles McFadden, O.S.A, summarizes what has been the mainstream position of Catholic moralists on this issue:

"Routine medical practice today utilizes intravenous feeding in a countless variety of cases. Certainly the physician regards this procedure an ordinary means of preserving life. It is obviously able to be carried out under normal hospital conditions, without any notable inconvenience. For this reason we must regard recourse to intravenous feeding, in the case of typical hospitalized patients, as an ordinary and morally compulsory procedure. The above conclusion applies, as stated, to routine hospital cases where the procedure is envisioned as a temporary means of carrying a patient through a critical period. Surely an effort to sustain life permanently in this fashion would constitute a grave hardship and not be morally compulsory."<sup>239</sup>

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<sup>237</sup> Bohr 1999:314

<sup>238</sup> Bohr 1999:314

<sup>239</sup> Bohr 1999:314

The Catholic tradition, however, holds firm to the distinction between killing and allowing to die, all the way through the dying process. Its position is grounded in the principle of the sanctity of life which affirms the sublime dignity of human life as a reflection of God and there are limits within which we must work to promote human well being.<sup>240</sup>

Two obligations are enshrined by sanctity of life. The first is the positive obligation to nurture and to support life. It gives rise to the duty to lead a fruitful life and to show reverence and love for the life of every person. The second is the negative obligation not to harm or to destroy life. This obligation is protected by the prohibition against directly taking of innocent life, which includes the prohibitions against euthanasia and assisted suicide. In fact, sanctify of life directs us to foster life-affirming attitudes and to scrutinize any discussion to terminate life or to forgo life sustaining treatment.<sup>241</sup>

Two other associated principles add to the Catholic opposition to euthanasia. These are the principle of divine sovereignty and the principle expressed by the divine law, 'You shall not kill'.<sup>242</sup> The principle of sovereignty in this context shows that what makes killing forbidden is that it violates the right of divine ownership. As confirmed by John Paul II, only God is the master of life.<sup>243</sup>

For this reason, the Catholic tradition regards taking innocent human life as always morally evil and can never be licit either as an end in itself or as a means to a good end.<sup>244</sup> The divine law prohibiting killing is found in the fifth commandment. The significance of appealing to this commandment in making a case against euthanasia is that it protects the bonds of being a covenantal community by prohibiting the arbitrary taking of the life by an individual, private decision, without community sanction.<sup>245</sup> On the positive side of this commandment to protect human life is the requirement to show reverence and love for every person and the life of every person.

The euthanasia movement is as much a challenge to the depth of moral character as it is a challenge to the meaning of our moral principles. Hoose argues that the true significance of the

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<sup>240</sup> Hoose 1998:282

<sup>241</sup> Hoose 1998:282

<sup>242</sup> CCC 2001:481

<sup>243</sup> John Paul II 1995 a:34

<sup>244</sup> CCC 2001:485

<sup>245</sup> Hoose 1998:283

Catholic opposition to euthanasia ultimately rests on the kind of witness that runs ahead of and behind the convictions which we say makes euthanasia untenable.<sup>246</sup>

In order to be a credible player in the debate, we have to bear convincing witness, personally and corporately, to the ways we live our lives, take care of our health, face our limits, let go of control, bear suffering, think about our relationship with others, make room for the weak and unsuccessful, care for the sick, the elderly and the dying. Whether we are going to rise to the occasion and alleviate those conditions of hopelessness which can make euthanasia so attractive is ultimately a matter of character, personal and corporate.<sup>247</sup>

In conclusion, only if we can rise to the occasion with compelling witnesses to our religious convictions about life, suffering, and death will we ever have an impact on shaping public consensus towards death as an experience that we need not hasten through lethal interventions.

Having concluded with the above arguments, we enter chapter five which deals with the theological reflections towards dignity and respect for life. This section will highlight some basic moral principles which should guide human action with regard to life. It follows by arguments from nature and practical effect and finally the Gospel of life as a new culture of human life. In conclusion a summary of the issues raised will be made together with moral guidelines for a future culture of respect for human life.

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<sup>246</sup> Hoose 1998:287

<sup>247</sup> Hoose 1998:228

## CHAPTER FIVE

### THEOLOGICAL REFLECTIONS TOWARDS DIGNITY AND RESPECT FOR LIFE

According to the Catechism of the Catholic Church, human life is sacred and inviolable. Life is God's benevolent gift to humanity. Everyone is responsible for his/her life before God who has given it to him/her. It is God who remains the sovereign Master of life. We are obliged to accept life gratefully and preserve it for his honour and the salvation of our souls. We are stewards, not owners, of the life God has entrusted to us. It is not ours to dispose of.<sup>248</sup>

#### 5.1 MORALITY OF HUMAN LIFE VIOLATIONS AND EVALUATION

Since within the scope of this work I only limited myself to debates on threats to life, I will highlight the few basic guidelines of human actions with regard to life. According to the African theologian, Okechukwu, they are as follows:

- (1) Human life is a primary value and it is superior to all other values.
- (2) It should be noted that not even the non-viable (like foetus) and the guilty can be killed except to save life.
- (3) The non-viable would never be directly killed.
- (4) Even in a situation when killing is justified, the matter should be submitted to enlightened judgment and responsible control.<sup>249</sup>

These guidelines can help African Christians, especially pregnant women and doctors, in their dealings with human life.

The witness of Sacred Scripture in the Old Testament stresses the important value of physical human life. It is the basic good without which no other good is possible. The fullness of life is found in the vigour and power of the body and its functions, its capacity for pleasure.<sup>250</sup> In the respect for human life, the Old Testament always considered blood a sacred sign of life.<sup>251</sup>

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<sup>248</sup> CCC 2001:486

<sup>249</sup> Okechukwu 2002

<sup>250</sup> Bohr1999:280

<sup>251</sup> CCC 2001:481



Also the Scripture specifies the prohibition contained in the fifth commandment: “Do not slay the innocent and the righteous.”<sup>252</sup> The deliberate murder of an innocent person is gravely contrary to the dignity of the human being, to the golden rule and to the holiness of the Creator. The law forbidding it is universally valid. It obliges each and everyone, always and everywhere. Therefore it is legitimate to insist on respect for one’s own right to life.<sup>253</sup>

For this reason, Sirico and Zieba assert that “nothing and no one can in any way permit the killing of an innocent human being, whether fetus or an embryo, an infant or an adult, an old person, or one suffering from an incurable disease, or a person who is dying. Furthermore, no one is permitted to ask for this act of killing, either for himself or herself or for another person entrusted to his/her care, nor can he/she consent to it, either explicitly or implicitly. Nor can any authority legitimately recommend or permit such an action.”<sup>254</sup>

The Catholic tradition on abortion and on euthanasia makes it easy for us to judge the morality of euthanasia. We do not have the right to take the life of an innocent person just because he/she is old or in pain. We do not have the right to take his/her life even if he/she asks us to do so because he/she is not entitled to set an end to his/her own life.<sup>255</sup> According to Haring, in spite of the distinction between abortion and infanticide, he strongly opposes the drawing of an artificial line or moral judgment between a born and unborn child. The child in the mother’s womb is a live human person with practically equal rights before and after birth.<sup>256</sup>

In abortion, the following fundamental values are at stake according to Haring:

- (1) the recognition of the right of each human being to the most basic conditions of life and to life itself;
- (2) the protection of this right to live, especially by those who have cooperated with the creative love of God;
- (3) the preservation of a right understanding of motherhood;
- (4) the ethical standard of the physician as one who protects and cares for human life and never becomes an agent of its destruction.<sup>257</sup>

The vigour of the argument derives from our belief in the dignity of each human person created in the image and likeness of God and in man’s calling to universal brotherhood in mutual love, respect and justice.

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<sup>252</sup> CCC 2001:481

<sup>253</sup> CCC 2001:482

<sup>254</sup> Sirico & Zieba 2000:54

<sup>255</sup> Brennan, Forristal, Heneghan & Murray 1977:105

<sup>256</sup> Haring 1972:97

<sup>257</sup> Haring 1972:98

Human life is sacred; all human beings must recognise that fact. From its very inception it betrays the creating hand of God. According to John Paul XXIII, those who violate His laws not only offend the divine Majesty and degrade themselves and humanity, they also sap the vitality of the state of which they are members.<sup>258</sup>

Harrelson argues that when abortion is available on request and there is no need even to give thought to the matter of a mysterious gift of life, present as a result of the action of two persons, then the commandment not to kill is not functioning well in the society. It functions well, at least minimally well, when it helps the partners involved in the conception and bearing of a child to reflect on what they have done, what the alternatives facing them at that time are, and where among such alternatives lies the course of action best able to fulfil the claim of life and the mystery of life being exercised upon and within them.<sup>259</sup>

Similarly, the taking of one's own life by a person who apparently has lost all possibility of continuing in life meaningfully is challenged by this commandment. Does the person contemplating suicide as the acceptable way of dealing with terminal illness find that he or she is in a position to claim the prerogatives of God and act on God's behalf?<sup>260</sup> Those whose lives are diminished or weakened deserve special respect. Sick or handicapped persons should be helped to lead lives as normal as possible.<sup>261</sup>

The inviolability of innocent human life has been attested to constantly. In more recent times, for instance, Pope Pius XII affirmed: "Every human being, even a child in the mother's womb, has a right to life directly from God and not from the parents or from any human activity. Hence there is no human authority, no science, and no medical, eugenic, social, economic or moral indication that can offer or produce a valid juridical title to a direct deliberate disposal of an innocent human life."<sup>262</sup> This is because the sanctity of human life is anchored in the fundamental belief that we are made in the image and likeness of God, there is no such thing as a valueless life, whether in the beginning or at the end of human existence.<sup>263</sup>

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<sup>258</sup> John Paul XXIII 1961:51

<sup>259</sup> Harrelson 1980:120

<sup>260</sup> Harrelson 1980:120

<sup>261</sup> CCC 2001:485

<sup>262</sup> Bohr 1999:282

<sup>263</sup> Bohr 1999:282-283

## 5.2 THE ARGUMENT FROM NATURE

On the wrongfulness of euthanasia, I support Gay-William's argument that "euthanasia as intentional killing goes against natural law because it violates the natural inclination to preserve life."<sup>264</sup> Furthermore, in Gay-Williams' view, both self interest and possible practical effect of euthanasia provide reasons for rejecting it.

Every human being has a natural inclination to continue living. Our reflexes and responses fit us to fight attackers, flee wild animals, and dodge out of the way of trucks. In our everyday life we exercise the caution and care necessary to protect ourselves. Our bodies are similarly structured for survival right down to the molecular level. When we are cut, our capillaries seal shut, our blood clots, and fibrogen is produced to start the process of healing the wound. When we are invaded by bacteria, antibodies are produced to fight against the alien organisms, and their remains are swept out of the body by special cells designed for clean up work.

Euthanasia does violence to this natural goal of survival. It is literally acting against nature because all the processes of nature are bent towards the end of bodily survival.<sup>265</sup> Euthanasia defeats these subtle mechanisms in a way that, in a particular case, disease and injury might not.

It is enough, I believe to recognise that the organisation of the human body and our patterns of behavioural responses make the continuation of life a natural goal. By reason alone, then we can recognise that euthanasia sets us against our own nature.<sup>266</sup> Furthermore, in doing so, euthanasia does violence to our dignity. Our dignity comes from seeking our ends. When one of our goals is survival, and actions are taken that eliminate that goal, our natural dignity suffers. Unlike animals, we are conscious through reason of our nature and our ends.

Euthanasia involves acting as if this dual natural inclination towards survival and awareness of this as an end did not exist. Thus, euthanasia denies our basic human character and requires that we regard ourselves or others as something less than fully human.<sup>267</sup>

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<sup>264</sup> Gay-Williams 2005:180

<sup>265</sup> Gay-Williams 2005:181

<sup>266</sup> Gay-Williams 2005:181

<sup>267</sup> Gay-Williams 2005:181

### 5.3 THE ARGUMENT FROM PRACTICAL EFFECT

Doctors and nurses are for the most part totally committed to saving lives. A life lost is for them almost a personal failure, an insult to their skills and knowledge. Euthanasia as a practice might well alter this. It could have a corrupting influence so that in any case that is severe, doctors and nurses might not try hard enough to save the patient.<sup>268</sup> They might decide that the patient would simply be better off dead and take the necessary steps to make that come about. This attitude could then carry over to their dealings with patients less seriously ill. The result would be an overall decline in the quality of medical care.

Finally, euthanasia as a policy is a slippery slope.<sup>269</sup> A person apparently hopelessly ill may be allowed to take his/her own life. Then he may be permitted to deputise others to do it for him/her should he/she no longer be able to act. The judgment of others then becomes the ruling factor. Already at this point euthanasia is not personal and voluntary, for others are acting on behalf of the patient as they see fit. This may well incline them to act on behalf of other patients who have not authorised them to exercise their judgement. It is only a short step, then, from voluntary euthanasia, to directed euthanasia administered to a patient who has given no authorization, to involuntary euthanasia conducted as part of a social policy.<sup>270</sup>

Recently many psychiatrists and sociologists have argued that we define as 'mental illness' those forms of behaviour that we disapprove of. This gives us license then to identify those who display the behaviour. The category of the 'hopelessly ill' provides the possibility of even worse abuse.<sup>271</sup>

Embedded in a social policy, it would give society or its representatives the authority to eliminate all those who might be considered too 'ill' to function normally any longer. The dangers of euthanasia are too great to all to run the risk of approving it in any form.<sup>272</sup> The first slippery step may well lead to a serious and harmful fall.

Euthanasia is inherently wrong because it violates the nature and dignity of human beings.<sup>273</sup> But even those who are not convinced by this must be persuaded that the potential

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<sup>268</sup> Gay-Williams 2005:182

<sup>269</sup> Gay-Williams 2005:182

<sup>270</sup> Gay-Williams 2005:182

<sup>271</sup> Gay-Williams 2005:182

<sup>272</sup> Gay-Williams 2005:182

<sup>273</sup> Gay-Williams 2005:182

personal and social dangers inherent in euthanasia are sufficient to forbid our approving it either as a personal practice or as a public policy.

Finally, we must know that suffering is surely a terrible thing, and we have a clear duty to comfort those in need and to ease their suffering when we can. But suffering is also a natural part of life which values for the individual and for others we should not overlook. Euthanasia however is not just an easeful death. It is a wrongful death. Euthanasia is not just dying. It is killing.

#### **5.4 THE GOSPEL OF LIFE AS A NEW CULTURE OF HUMAN LIFE**

The Gospel of life is not simply a reflection, however new and profound on human life. Nor is it merely a commandment aimed at raising awareness and bringing about significant changes in society. Still less it is an illusory promise of a better future. The Gospel of life is something concrete and personal, for it consists in the proclamation of the very person of Jesus Christ.<sup>274</sup>

Through the words, the actions and the very person of Jesus, man/woman is given the possibility of “knowing” the complete truth concerning the value of human life. From this source, he/she receives, in particular, the capacity to accomplish this truth perfectly<sup>275</sup>, which is to accept and fulfil completely the responsibility of loving and serving, of defending and promoting human life.

In Jesus, the “Word of life”, God’s eternal life is thus proclaimed and given. Thanks to this proclamation and gift, our physical and spiritual life, also in its earthly phase, acquires its full value and meaning, for God’s eternal life is in fact the end to which our living in this world is directed and called. In this way the Gospel of life includes everything that human experience and reason tell us about the value of human life, accepting it, purifying it, exalting it and bringing it to fulfilment.<sup>276</sup>

We are the people of life because God, in his unconditional love, has given us the Gospel of life and by this same Gospel we have been transformed and saved. We have been ransomed by the “Author of life” at the price of his precious blood.<sup>277</sup>

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<sup>274</sup> John Paul II 1995 b:52

<sup>275</sup> Jn 3:21

<sup>276</sup> John Paul II 1995 b:54

<sup>277</sup> Acts 3:16

Human life as a gift of God is sacred and inviolable.<sup>278</sup> For this reason abortion and euthanasia are absolutely unacceptable. Not only must human life not be taken, but it must be protected with loving concern. The meaning of life is found in giving and receiving love. Love also gives meaning to suffering and death; despite the mystery which surrounds them, they can become saving events.<sup>279</sup> Society as a whole must respect, defend and promote the dignity of every human person, at every moment and in every condition of that person's life.

In our present social context marked by a dramatic struggle between the "culture of life" and the "culture of death", there is need to develop a deep critical sense, capable of discerning true values and authentic needs.

What is urgently called for is a general mobilization of consciences and a united ethical effort to activate a great campaign in support of life. All together we must build a new culture of life, new because it will be able to confront and solve today's unprecedented problems affecting human life; new because it will be adopted with deeper and more dynamic conviction by all Christians; new because it will be capable of bringing about a serious and courageous cultural dialogue among all parties. The purpose of the Gospel, in fact is to transform humanity from within and to make it new.<sup>280</sup>

The first and fundamental step towards this cultural transformation consists in forming consciences with regard to the incomparable and inviolable worth of every human life.<sup>281</sup>

It is of greatest importance to re-establish the essential connection between life and freedom. These are inseparable goods. Where one is violated, the other also ends up being violated. There is no true freedom where life is not welcomed and loved; and there is no fullness of life except in freedom.<sup>282</sup> Both realities have something inherent and specific which links them inextricably, the vocation to love. Love as a sincere gift of self is what gives the life and freedom of the person their truest meaning.

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<sup>278</sup> John Paul II 1995 b:145

<sup>279</sup> John Paul II 1995 b:145

<sup>280</sup> Paul VI 1975:18

<sup>281</sup> Paul II 1995 b:170

<sup>282</sup> Norman & Guiseppa 1990:24

## 5.5 CONCLUSION

Respect for human life is central in all morality. Yet recent years have seen this respect undermined, particularly in connection with abortion and euthanasia. Christian faith understands human value as being established by our relationship with God.<sup>283</sup> It is a relationship created and given by God himself. It is because we have our being from God and sustained by God that we can meaningfully affirm the value of individual human life.

When abortions are available on request and there is no need even to give thought to the matter of a mysterious gift of life, present as a result of the action of two persons, then the commandment not to kill is not functioning well in the society. As already quoted from Harrelson: it functions well, at least minimally well, when it helps the partners involved in the conception and bearing of a child to reflect on what they have done, what the alternatives facing them at that time are, and where among such alternatives lies the course of action best able to fulfil the claim of life and the mystery of life being exercised upon and within them.<sup>284</sup>

Similarly, the taking of one's own life by a person who apparently has lost possibility of continuing in life meaningfully is challenged by this commandment. Does the person contemplating suicide as the acceptable way of dealing with terminal illness find that he or she is in a position to claim the prerogatives of God and act on God's behalf?

Those in favour of the right to abortion, the so called pro - choice individuals, argue their position on two grounds: first, that a woman has a right to choose matters concerning her body and, second, that the fetus is not a person. In opposition the anti-abortionists, the so called pro - lifers, argue that the fetus is a person from conception.

The majority in *Roe v. Wade* (1973) argued that there is a constitutional right of privacy that protects the freedom to decide whether or not to have children.<sup>285</sup> Thus a person has the freedom to terminate a pregnancy, although the Court recognized the state's interest in certain aspects of the practical exercise of that freedom, which is to protect a woman's health in the second trimester and to protect the life of a viable fetus in the third trimester.

Conservatives maintain that a human life begins at conception and that therefore abortion must be wrong because it is murder. But not all killings of humans are murders. Most notably,

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<sup>283</sup> Wogaman 1976:80

<sup>284</sup> Harrelson 1980:120

<sup>285</sup> Gould & Mulvaney 2007:511



self defence may justify even the killing of an innocent person.<sup>286</sup> Liberals, on the other hand, are just as mistaken in their argument that since a fetus does not become a person until birth, a woman may do whatever she pleases in and to her own body.<sup>287</sup> First, you cannot do as you please with your own body if it affects other people adversely. Second, if a fetus is not a person that does not imply that you can do to it anything you wish. Animals, for example, are not persons, yet to kill or torture them for no reason at all is wrong.

The basic line of argument supporting euthanasia and physician-assisted suicide can be summarised as follows. On the grounds of respect for autonomy, human persons should have the right to control their living and dying, and so they should be able to end their lives when they wish to terminate needless suffering.<sup>288</sup> Physicians, as agents of the patient's best interest, should assist either by directly killing the patient or by assisting the patient in suicide.

The main line of the religious argument against euthanasia and assisted suicide is that human persons are stewards of creation and so we have only limited dominion and thus limited freedom over our lives.<sup>289</sup> Human life is a trust and not a personal possession over which we can assume full control. The sanctity of human life is conferred by God and requires reverence and protection. Taking innocent life is not human right, but a grave moral evil. Human suffering, while not a value itself can have meaning when lived in faith and so need not diminished human dignity.<sup>290</sup>

The Catholic position has been singled out because Roman Catholic theology has long reflected on the extent of one's obligation to preserve life. This tradition of reflection, and its principles for making decisions about the care of the dying, are respected by diverse communities, and used, at times as a foil by those arguing in favour of euthanasia.<sup>291</sup>

The reason why the Catholic is revisiting this issue of abortion and euthanasia is because on the sacredness of human life, the Catholic view remains: man's life comes from God; it is his gift, his image and imprint, a sharing in his breath of life. God, therefore, is the sole end Lord of life: human person cannot do with human life as he/she wills.<sup>292</sup>

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<sup>286</sup> Gould & Mulvaney 2007:512

<sup>287</sup> Gould & Mulvaney 2007:512

<sup>288</sup> Hoose 1998:278

<sup>289</sup> Gula 1998:278

<sup>290</sup> Gula 1998:279

<sup>291</sup> Gula 1998:277

<sup>292</sup> John Paul II 1995 a:39



Furthermore, human life is sacred because from its beginning in involves the creative action of God and it remains forever in a special relationship with the Creator, who is its sole end. God alone is the Lord of life from its beginning until its end. No one can in any circumstance claim for himself/herself the right to destroy directly an innocent human being. Doing so would be degrading the creative action of God.<sup>293</sup>

On the malice of abortion, I strongly support Haring's position which states that, in spite of the distinction between abortion and infanticide, he opposes the drawing of an artificial line or moral judgement between a born and unborn child. The child in the mother's womb is a live human person with practically equal rights before and after birth.<sup>294</sup>

I also agree with Mackie who argues that the grounds for euthanasia would need to be very strong. Where, however, someone can be kept half alive only by the continued use of elaborate support mechanisms or by repeated operations, and where the life thus maintained is plainly of no value to the person affected, it may be morally acceptable to let him or her die.<sup>295</sup>

Conclusively, all human beings ought to value every person for his or her uniqueness as a creature of God, called to be a brother or sister of Christ by reason of the Incarnation and the universal redemption. For us, the sacredness of human life is based on these premises. And it is on these premises that there is based our celebration of life, all human life.<sup>296</sup> This explains our efforts to defend human life against every influence or action that threatens or weakens it, as well as endeavours to make every life more human in all its aspects.

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<sup>293</sup> Sirico & Zieba 2000:51

<sup>294</sup> Haring 1972:97

<sup>295</sup> Mackie 1977:195 - 199

<sup>296</sup> John Paul II 1989:21

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