R.S. 2132: Contemporary Moral Problems

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From

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“The Roman Catholic Position”

The substance of the Catholic position can be summed up in the following principles, which are sometimes developed in a theological way, sometimes philosophically, and sometimes mixed together: (1) God alone is the Lord of life. (2) Human beings do not have the right to take the lives of other (innocent) human beings. (3) Human life begins at the moment of conception. (4) Abortion, at whatever the stage of development of the conceptus, is the taking of innocent human life. The conclusion follows: Abortion is wrong. The only exception to this conclusion is in the case of an abortion that is the indirect result of an otherwise moral and legitimate medical procedure (e.g., the treatment of an ectopic pregnancy and cancerous uterus).

God Alone Is the Lord of Life

When the Catholic position is argued theologically, this is a key proposition. "Only God is Lord of the Life of a man who is not guilty of a crime punishable with death," Pius XII said on one occasion, and, on another, "Every human being, even the child in its mother's womb receives its right to life directly from God" (as quoted above). Norman St. John-Stevas argues in a similar way, as do other Catholic authors.² Variantly, this argument is often couched in terms of the right to life, especially when the inviolability of human life is approached from a philosophical-natural-law-perspective. Thus Fr. Thomas J. O'Donnell contends that the purposeful termination of a pregnancy "contains the moral malice of the violation of man's most fundamental human right--the right to life itself."³ Other authors, although more rarely, have also seen in abortion the thwarting of the ends of nature, in this instance that of frustrating the good of the species in favor of the good of an individual (the mother).⁴

I am critical of the use of the principle of God's lordship as a premise in a consideration of the morality of abortion. To recapitulate, it presupposes that God intervenes directly in natural and human affairs as the primary causative agent of life and death. Not only is this theologically dubious, it also has the effect of obscuring the necessity that human beings define terms, make decisions, and take responsibility for the direct care of human life. Moreover, to say that God is the ultimate source of the right to life, which is less objectionable theologically, still does not solve the problem of how human beings ought to respect that right or how they are to balance a conflict of rights. Normally speaking, the right to life takes primacy over other rights, since without life no other rights can be exercised. But abortion problems normally arise because other important rights appear to be in conflict with this right; unless a prior and fixed decision has been made to give always and in every circumstance the right to life a primacy over all other human rights, it is not clear how, without begging some important questions, the right to life can be
invoked as the sole right in question in abortion decisions. But this is the procedure of many Catholic moralists when it comes to abortion.

**Human Beings Do Not Have the Right to Take the Lives of Other (Innocent) Human Beings**

This proposition is consistent both with Christian ethics, in the theological sense, and with Catholic natural-law morality. The word 'innocent,' however, is crucial here. Traditional Catholic morality has defended the just war, i.e., defensive, limited war waged for the preservation of life or the protection of vital human rights. These wars have been justified even though they result, often enough, in the foreseen taking of innocent life, particularly the lives of noncombatants. The justification for thus taking innocent life is governed by the principle of double effect. Thus, innocent (noncombatant) lives cannot be taken unless, for the strict demands of self-defense, these lives are taken only indirectly, that is, by an action "designed and intended solely to achieve some other purpose(s) even though death is foreseen as a concomitant effect. Death therefore is not positively willed, but is reluctantly permitted as an unavoidable by-product." Thus, while the proposition concerning the absence of the right of one human being to take the life of another is basic to Catholic morality, when argued both theologically and in terms of natural law, it admits of an important exception in two circumstances: when the life to be taken is not innocent human life (as in punishment for capital crimes and in the case of a just defensive war) and when it is innocent life but the taking of life is indirect.

**Human Life Begins at the Moment of Conception**

Whereas the first two propositions were general moral principles, this one is a specific proposition about the nature of the life in question in abortion decisions. While some Catholic moralists are attempting to revive the earlier distinction between the formed and the unformed fetus, the general trend in recent decades has been to eliminate the distinction and count as human the immediate product of conception. Thus, Pius XII: "Even the child, even the unborn child, is a human being in the same degree and by the same title as its mother." These words were consistent with the words of Pope Pius XI, who had spoken of the conceptus as "an innocent child" and "an innocent human being." In line with phrases of this kind, the Catholic Hospital Association of the United States and Canada has specified as one of its principles: "Every unborn child must be regarded as a human person, with all the rights of a human person, from the moment of conception." When speaking cautiously, many theologians would say that, in the absence of a philosophical or scientific demonstration that a conceptus is human, respect for life requires us to treat it as if it were.

It goes without saying that a decision to call a conceptus, whatever the stage of development, a human being or a human person presumes certain convictions about the proper way to read biological evidence. While the papal statements do not give the reasoning behind this decision, it is safe to assume that the ultimate motive behind so reading the evidence in this fashion is to extend protection to the earliest reaches of individual human life. It represents a moral policy, one which has chosen one possible way of reading the data and chosen this way, the safest way, as the most compatible with the moral aim: the protection of all innocent life. In addition, in a way consistent with the Catholic tradition, Catholic authors overwhelmingly tend to make the
problem of the beginning of human life the major, indeed overriding, particular factual question
to be answered in any approach to abortion. Once it is determined (as the tradition has
determined) that the right to life is the fundamental human right, and that innocent life may not
be taken, then the only remaining question of consequence is whether the conceptus ought to be
considered human life. As Fr. Robert Drinan has put it, "Every discussion of abortion must, in
the final analysis, begin and end with a definition of what one thinks of a human embryo or
fetus." For John T. Noonan Jr., "the most fundamental question involved in the long history of
thought on abortion is: How do you determine the humanity of a being?" David Granfield felt
that the centrality of the question warranted beginning his book on abortion with it. For that
matter, whether dealt with in terms of the question of the moment of animation or ensoulment or
in some other more contemporary form, it is a question that has traditionally been given
primacy. This characteristic of Catholic argumentation is important because, by so ordering the
priority of the questions to be asked, all other questions are thrown into a subsidiary position.
Actually this makes it exceedingly difficult, within the Catholic problematic, to try and weigh
other values--the mother's duty toward her children, her psychological state and freedom, her
economic situation--or to raise or answer the other kinds of questions; the first question asked
tends to preempt the others. An important aspect of the one-dimensionality of the Catholic
position is thus its tendency to narrow the issues considered legitimate and important to very few;
issues that, it turns out, bear almost exclusively (with the noted exceptions) on the status of the
conceptus. No room is left for the integration of a full range of rights, personal and communal.

Abortion, at Whatever the Stage of Development of the Conceptus, Is the Taking of
Innocent Human Life

Once the question of whether the conceptus from the moment of conception is human life has
been answered in the affirmative, then it is only a short, indeed tautological step to state that
abortion is the taking of innocent human life. While, as Noonan has shown, there have been
theologians who have tried to develop the argument that in some cases, the fetus can be counted
as an aggressor, this line has had scant papal or theological support. The net result is that the act
of abortion is, in the end, defined as an act that takes innocent human life, and thus by definition
an act to be condemned and proscribed. If one stays within the framework of the Catholic
argument, proceeding from premises 1 to 3, then this is a logical deduction and thus
unexceptionable. With premise 2 taken as a principle of the natural law and the conceptus judged
factually (biologically) to be human, no other conclusion is possible than a condemnation of
abortion. As Josef Fuchs, SJ., has argued (exhibiting both the style and the substance of the
argument):

Any principle of the natural law remains efficacious in every situation that realizes the facts
involved by this principle. For example, it can never happen that the prohibition of a direct
destruction of unborn life--a principle of the natural law--could cease to be an absolute demand
even in difficult concrete situations, or out of charitable consideration for a mother and her
family.

Put in terms of the four propositions above, the structure of the Catholic argument is
comparatively simple and straightforward. It rests on no obscure arguments (even if they may
strike many as fallacious), requires no elaborate steps to carry it off (as, for instance Catholic
natural-law arguments against contraception do) and draws on few idiosyncratic Catholic ways of arguing moral issues (conservative Protestant and Jewish arguments are not that dissimilar). But it seems to me that one cannot fully appreciate the Catholic position (or the vehemence with which it is supported) without observing a number of collateral arguments commonly brought to bear in support of it. Most commonly, it is contended that a justification of abortion has the force of a justification for treating all human beings as expendable and introducing a principle of expediency into human relations. As David Granfield has put it:

Abortion is forbidden morally because it is an abuse of human power. It is a destruction of a human being by another human being, and as such it strikes at the heart of human dignity. The usurpation of authority which is abortion is not wrong simply because it kills unborn children, but because it results in the vilification of all men. To give moral justification to abortion is to condemn all men to the level of expendable things. Morally, the fight against abortion is not primarily to protect the human dignity of the unborn, but is above all to safeguard that dignity in all men.\(^\text{12}\)

For Father Drinan, an acceptance of the American Law Institute's Model Penal Code on abortion would have the consequence of overthrowing a fundamental value of Anglo-Saxon law, the inviolability of human life: "At no time and under no circumstances has Anglo-American law ever sanctioned the destruction of one human being--however useless and unwanted such a person may be--for the purpose of securing or increasing the health or happiness of other individuals."\(^\text{13}\) For Father O'Donnell, doctors who perform therapeutic abortions have adopted a philosophy of "medical expediency" that they are willing to place above any other moral standard.\(^\text{14}\) Bernard Haring sees the possibility of a fundamental threat to motherhood: "If it were to become an accepted principle of moral teaching on motherhood to permit a mother whose life was endangered simply to 'sacrifice' the life of her child in order to save her own, motherhood would no longer mean absolute dedication to each and every child.\(^\text{15}\) For Noonan, "abortion violates the rational humanist tenet of the equality of human lives.\(^\text{16}\) Finally, it is not unfitting to mention that some older manuals of moral theology--still in use in some places--condemned abortion on the added (but theologically dubious) ground that "it deprives the soul of eternal life."\(^\text{17}\)

Extrapolations of this kind, which often strike the non-Catholic as red herrings if not bizarre, make considerable logical sense once one realizes that the premises of the Catholic argument have defined abortion as the taking of innocent human life. At stake, in the Catholic view, is the principle of the right to life: if the principle is breached in one place, it could well be breached in another--a precedent has been established for violating the principle. One may object (as I will) to the premises, but it is important to see that, once adopted, the conclusions Catholics draw from them are consistent. The practice of envisioning further erosions of respect for life if abortion is accepted is, in the Catholic view, a perfectly legitimate philosophical procedure, a way of trying to chart the consequences of a change in what are taken to be fundamental moral principles. It is a procedure, moreover, used commonly in all forms of moral argumentation and by no means restricted to Catholics; it is only to say, as others say when their own ox is gored, that the social consequences of a change in basic moral principles can be enormously harmful. Given the
Catholic premises, it should at least be understandable (even if not acceptable) why many Catholics cannot but view with alarm the prospect of a moral acceptance of abortion. State the case as bluntly as John Marshall has done and it is easy to see social disaster as a consequence of an acceptance of abortion: "Direct abortion . . . is gravely wrong, because it constitutes the direct killing of an innocent human being."\(^{18}\) It ought to be understandable why Catholics, given their premises, can envision the anti-abortion cause as an attempt to hold on to very basic Western values, values by no means exclusively their own but rather the patrimony of the entire culture. A quotation from Fr. Richard A. McCormick will help to drive the point home: "The question 'What am I doing?' is the first question to be asked about induced abortion. It is all the more urgent because it is precisely the question our society nearly always neglects."\(^{19}\) The Catholic answer is that the act being performed in abortion is the killing of an innocent human being; once reached, a conclusion of this kind dictates, at the cost of inconsistency and moral irresponsibility, vigorous opposition to abortion.

**The Principle of Double Effect**

Within the framework of traditional Catholic morality, it is exceedingly difficult for a Catholic—even if he or she would like to do so—to find a way of taking exception to the received teaching. This is, no doubt, one reason why few efforts have been mounted to change the teaching. With the exception of the premise that human life begins at conception (which can at any rate be challenged on biological grounds, where the evidence is open to varying interpretations), the other premises seem either securely fixed by the Christian tradition or represent straightforward deductions from natural-law premises already accepted. If, then, the traditional teaching is to be challenged within a Catholic framework (and, of course, it is simple to challenge it from an entirely different theological or philosophical framework), it must be done by a critical examination of (1) the premises themselves, (2) the validity of the conclusions drawn from the premises, and (3) the details and methods of argumentation. As for the premises, a number of objections have already been leveled at the theological belief that the lordship of God takes the matter of abortion decisions out of human hands, and at the philosophical belief that the right to life necessarily takes precedence over all other rights. Once this much has been seen and the premises thrown into question (but only that), then the way is open to dispute the conclusion drawn from these premises: that the direct taking of innocent fetal (or embryonic) life is always and necessarily immoral.

One detail in particular of the traditional Catholic argument opens the way for such a disputation: the principle of double effect. As noted, the only exceptions to the absolute prohibition of abortion are in the case of an ectopic pregnancy or a cancerous uterus. In both of these instances, the justification for the exception is that the indicated medical procedure to save the life of the mother (the removal of the tube or of the uterus) has as its direct intention the saving of the life of the mother; the death of the fetus is the foreseen but unintended and indirect result of the lifesaving surgery performed on the mother. By a use of this distinction, then, an abortion can be performed in the specified cases without directly violating the moral law that innocent life cannot be killed. The basis for the principle is the commonsense observation that an action can have a good and a bad effect or result. As a theological distinction, it was first employed by Thomas Aquinas, who built on it a justification for the taking of life in self-defense.\(^{20}\) In essence, the point of the principle is this: An action that has both a good and a bad effect may be performed if
the good effect accomplished is greater than the evil effect and if, in addition, at least four other conditions are met:

(1) the act must itself be either "good" or indifferent, or at least not forbidden with a view to preventing just that effect;

(2) the evil effect cannot be a means to the good, but must be equally immediate or at least must result from the good effect;

(3) the foreseen evil effect must not be intended or approved, merely permitted--for even a good act is vitiated if accompanied by an evil intent;

(4) there must be a proportionately serious reason for exercising the cause and allowing the evil effect.\(^{21}\)

The problem of an ectopic pregnancy illustrates what is considered a legitimate use of the principle:

The removal of a pregnant fallopian tube containing a non-viable living fetus, even before the external rupture of the tube, can be done in such a way that the consequent death of the fetus will be produced only indirectly. Such an operation will be licitly performed if all the circumstances are such that the necessity for the operation is, in moral estimation, proportionate to the evil effect permitted.\(^{22}\)

In this instance, the intent of the operation itself is good (as a standard operation to save life); although the fetus is killed, this effect, although foreseen, is not the intention of the operation (thus the death of the fetus is indirectly caused); the evil effect (the death of the fetus) is not the means to the good end (the saving of the life of the woman), but only the indirect result of the means (the tubal removal) necessary to save the life of the woman. Thus, the conditions for an application of the principle are met. By contrast, a fetalcraniotomy to save the life of the woman would not be licit because, in this case, the life of the fetus is taken directly by the act of crushing its skull. The intention is good (saving the life of the woman), but the means employed are evil (directly taking the life of an innocent fetus); hence, fetal craniotomy is forbidden.\(^{23}\)

Now, it has been contended that, far from being impersonal and legalistic, the principle of double effect represents "an attempt on the part of theologians to free us to do as much as possible, even though indirectly intended evil--in this case, the death of the unborn --results."\(^{24}\) For Noonan, the making of exceptions on the basis of the principle represents an attempt to achieve a balance: "In Catholic moral theology, as it developed, life even of the innocent was not taken as an absolute. Judgments on acts affecting life issued from a process of weighing. In the weighing, the fetus was always given a greater value than zero, always a value separate and independent from its parents."\(^{25}\) One feels compelled to comment, however, that the weighing in question is decisively one-sided, takes physical life alone as the only value at stake, leaving no real room for even investigating any other considerations that might come into play. It is evident, moreover, that a theology that would countenance the death of the fetus and the woman (rare in fact but pertinent in principle) rather than directly take the life of the fetus is one geared heavily to a preoccupation
with preserving individuals from sin or crime. Its real interest in the extreme case of letting both woman and fetus die turns out, in effect, not to be the good of the mother (for, hypothetically, a fetal craniotomy would save her life), but the good conscience of those who might but do not act to save her. The basic moral principle of "Do good and avoid evil" is efficaciously rendered into the avoiding of evil alone.

The way in which a conflict of rights between a woman and a fetus is treated is illuminating of the consequences of this style of moral reckoning; for it is at this point that the style most clearly shows itself. Pope Pius XII in a statement has said that "neither the life of the mother nor that of the child can be subjected to an act of direct suppression. In the one case as in the other, there can be but one obligation: to make every effort to save the lives of both, of the mother and the child." But it is, of course, precisely the supposition of the hypothesis in these situations (however rare medically) that, unless the fetus is killed, the mother will die also: both lives cannot be saved. The assumption behind this form of reasoning is that there exists a fixed order of rights, before which humans must passively stand, whatever the physical consequences of their passivity. A passage from Josef Fuchs' book brings this out:

The difficulty of a conflict of rights can easily [my italics] be solved if one understands that there are no heterogeneous orders and demands of the natural law placed side by side without any relation to one another. There exists indeed an order of goods and values, of commands and demands through the very nature of things, so that there can be no true conflict of rights but at most an apparent conflict. The two obligations concerning a pathological birth, to preserve the life of the mother and not to kill the child, only seem to contradict one another. There is in fact no commandment to save the mother at all costs. There is only an obligation to save her in a morally permissible way and such a way is not envisaged in stating this given situation. Consequently only one obligation remains: to save the mother without attempting to kill the child.  

What seems apparent here is that, despite acknowledgment of an obligation to the mother, the primary obligation is fulfillment of the moral law, which exists independently of the obligations owed to particular human beings. Once the primary obligation has been discharged, fidelity to the moral law, no human obligations remain; the woman may be allowed to die. One consequence of a morality that centers obligation and responsibility in preservation of the law is to posit a sharp distinction between physical and moral evils. "Two natural deaths," David Granfield has written, "are a lesser evil than one murder. In the conflict of interests between mother and child, the rights of both to live must be preserved. The conflict cannot be resolved morally by the killing of the weaker party without thereby destroying all morality." Even if one assumes the killing of the child in the instance of a moral conflict would be "murder," one has to ask why this "murder" would be a greater evil than the death of both. Would it not be a moral evil to let the woman die (when she could be saved), and an even greater moral evil if there were others (husband, other children) dependent on her? To imply that such an evil is physical is to posit a moral helplessness and lack of human responsibility in the face of natural disasters. On the contrary, it seems to me perfectly reasonable to say that what is initially a physical situation (an event in nature) becomes a moral situation when it enters the realm of potential human action. A choice not to act in the face of a physical evil for the sake of saving another becomes--assuming human responsibility--a moral choice.
In a rigid natural-law formulation the terms of the choice seem dictated by laws supposedly transcendent to the human beings affected by them. In Granfield's instance the preservation of the rights of both to life becomes nothing more than sheer formalism. For, when one or more human beings refuse to save the mother by the "murder" of the fetus, she is being refused by other human beings the de facto right to life; her rights are nullified. To say that "all morality" would be destroyed "by the killing of the weaker party" is only possible if one presumes that morality consists in observing a moral law regardless of the consequences for individual human beings. The range of human responsibility is thus narrowed to a point where the good conscience of those who could act and the abstract demands of the law take precedence over every other consideration. It becomes, at this point, virtually meaningless to speak, as Noonan has done, of the work of the moralists as one of "the weighing of fetal rights against other human rights." For the terms allowable in the weighing are such as to ensure that, once the fetus has been defined as innocent human life, the weighing entirely favors the fetus. That two exceptions are admitted (and those medically uncommon) can hardly be said to constitute "balance." And it goes without saying, of course, that when the only aspects of the balance even worthy of consideration are those of physical life, then the whole network of other responsibilities the mother may have becomes morally irrelevant.

Review Questions

1. What are the four principles identified by C. from which follows the conclusion that "Abortion is wrong"?

2. What are C.'s two major objections to the way in which the principle "God alone is the Lord of Life" is used in the abortion debate?

3. What are the two important exceptions that C. identifies to the principle that human beings do not have the right to take the life of other human beings?

4. What does C. see as the ultimate motive behind the papal statements' reading of the biological evidence in a way that concludes that human life begins at the moment of conception?

5. C suggests that the basic line of argument for the Catholic position is simple and straightforward (assuming that the premises are accepted as true). However, in order to fully appreciate the argument and the vehemence with which it is supported, it is necessary to observe certain side or collateral arguments. What is the main collateral argument he identifies?

6. What does C. identify as the difference between the kind of abortion in the case of an ectopic pregnancy to save the life of the mother (which would be justified by applying the principle of double effect) and an abortion by craniotomy to save the life of the mother (which would not be justified by the principle of double effect)?

7. What according to C., seems to be the over-riding obligation in effect where the reasoning of Catholic moral teaching arrives at the conclusion that it is a lesser evil to allow both the mother and the child to die than to directly kill either one to save the other?

2. See, for instance, Bernard Haring, The Law of Christ (Westminster, MD: Newman Press, 1966), Vol. 111, p. 209: "God alone is the author of life and death. No physician may pass and execute the sentence of death on one who is innocent.... If despite all his sincere efforts he is not successful, then God Himself has rendered the decision and passed the verdict on a human life." Fr. Charles McFadden, in line with many other Catholic moralists, argues that only those who are theists can understand this kind of point (Medical Ethics [3d. ed.; Philadelphia, P.A. Davis Co., 1955], p. 165).


7. Ethical and Religious Directives for Catholic Hospitals (St. Louis: The Catholic Hospital Association of the United States and Canada, 1965), p. 4; see also Karl Rahner, Schriften zur Theologie (Einsiedeln: Benziger Verlag, 1966), p. 317, where the unborn child is called a human being.


17. 1. Aertnys et al., Theologiae Moralis, op. cit., p. 547.


20. S.T., lla-llaæ. q. 64, art. 7.


