

Annunciation Lent Course 2024: Making Moral Decisions

Talk 2. Ethics at the beginning of life

We count people's years from their date of birth but we know that their individual life begins before that; and we also know that all life at its beginning, whether inside the womb or outside, is vulnerable and in need of protection. However, people disagree about when life begins to have value, about when it involves rights and deserves protection. Some say human rights and human life go together from the moment of conception; others only recognize such rights at birth, or even later.

The right to life in the Bible

Abortion is never directly mentioned in the Scriptures, although a strange passage in Numbers 5: 11-31 mentions a bitter drink made of dust from the sanctuary which is to be given to a woman suspected of infidelity. Was this an abortifacient? The nearest thing to an abortion prohibition is a passage in Exodus (21: 22-23) which talks about an accidental miscarriage:

When men have a fight and hurt a pregnant woman, so that she suffers a miscarriage, but no further injury, the guilty one shall be fined as much as the woman's husband demands of him, and he shall pay in the presence of the judges. But if injury ensues, you shall give life for life.

So, if the woman is killed, a life must be paid in return; if the child in the womb is harmed, only a fine. When this text was translated for the Greek version of the Old Testament (the Septuagint, from the second century B.C.) there was a significant change, reflecting the translator's interpretation and a more sophisticated understanding of life in the womb:

And if two men strive and smite a woman with child, and her child be born imperfectly formed, he shall be forced to pay a penalty: as the woman's husband may lay upon him, he shall pay with a valuation. But if it be perfectly formed, he shall give life for life.

Here the distinction is between an early and a late miscarriage - the more developed baby is "worth" more. The Septuagint version was the Old Testament of the Catholic Church until recent years (translated into Latin as the Vulgate).

However, the Jews of the Old Testament, although they were surrounded by cultures where infanticide, infant sacrifice and abortion were not uncommon, still had a great sense of life as a gift from God and this is often expressed in the Bible, as mentioned in the Catechism of the Catholic Church. Moses prayed, "May you be blessed in the city, and blessed in the country. Blessed be the fruit of your womb" (Dt 28:2-6). The angel told the mother of Sampson, "As for the son you will conceive and bear, no razor shall touch his head, for this boy is to be consecrated to God from the womb" (Jgs 13:5). Job stated, "Did not He who made

me in the womb make him? Did not the same One fashion us before our birth?" (Jb 31:15). In Psalm 139:13, we pray, "Truly You have formed my inmost being; You knit me in my mother's womb." There is also a belief that God calls us from the first moment of our lives. The prophet Isaiah proclaimed, "Hear me, oh coastlands, listen, oh distant peoples. The Lord called me from birth, from my mother's womb He gave me my name" (Is 49:1-5). Likewise, Jeremiah recalled, "The word of the Lord came to me thus: Before I formed you in the womb I knew you, before you were born I dedicated you, a prophet to the nations I appointed you" (Jer 1:4-5). In a similar way, the New Testament always refers to a child in the womb as a child or infant, not as a fetus (although the word existed) or an "it"; for example, when Mary visits Elizabeth the scene is clearly depicted as the meeting of four people.

Christianity, as it developed and spread, sometimes adopted contemporary practices (like eating all things) but there was no compromise on this. The Greco-Roman world, at the time of Our Lord and the first Christians, permitted abortion and infanticide; until accepted by a father, an infant was a non-person who could be destroyed. The Christian *Didache* (from the late first century) absolutely refutes this view: "You shall not kill the embryo by abortion and shall not cause the newborn to perish"; and Tertullian (from the early third century) said: "He who is man-to-be is man, as all fruit is now in the seed". With little knowledge of human biology there were debates about when the fetus received a soul (related to the distinction between the unformed and formed fetus in Exodus). Saint Augustine placed ensoulment at 46 days; Saint Thomas Aquinas said it happened at 40 days for males, 90 days for females! Saint Thomas said it was "a grave sin against the natural law" to kill the fetus at any stage but was the very grave sin of homicide if it happened after ensoulment. Occasionally Catholic teachers raised the question of the value of the life of the mother against the life of the child; and the unformed/formed or unensouled/ensouled distinction was used in the calculation of penances after sin (Protestants made the same distinction). However, all agreed that abortion was wrong, although it was becoming increasingly clear to Catholics that the moral wrong needed a stronger foundation than the Bible alone.

In Judaism, using the same Old Testament passages as their foundation, the child has no full rights until it is born. Catholicism did not take this gradualist approach. In 1869 Pope Pius IX condemned abortion from the moment of conception, classifying it as homicide, and attached the punishment of excommunication to it. The Catholic position was increasingly strengthened by the discoveries of science.

The right to life and Natural Law

From the time of Saint Albert the Great (d. 1280), who with his student Thomas Aquinas promoted the thought of Aristotle, the importance of science not based on mere theory but on the observation of nature has been emphasized. Albert wrote: “The aim of natural philosophy (science) is not simply to accept the statements of others, but to investigate the causes that are at work in nature”. Pius IX’s teaching on the value of human life from the moment of conception springs from this kind of experimental science, and it was truly remarkable given the ignorance at that time about how human life was transmitted. Our modern knowledge of “the facts of life” is far in advance of the most brilliant scientist of 150 years ago. It was only in 1876 that Oscar Hertwig (with the help of a good microscope) made the discovery of fertilization in sea urchins, leading to the science of embryology. He observed that the nuclei of sperm and egg fused during fertilization, thereby providing a conceptual basis for genetic inheritance and settling the long-standing debate on the role of the egg and sperm in the generation of new life. In 1921, after 50 years of observations by scientists using embryos and fetuses obtained from accidents and corpses, a *Text-Book of Embryology* was published by two professors of medicine at Columbia University in New York (Bailey and Miller).

Research continued but these discoveries related to human development only really entered into public consciousness with the publication of *Life Magazine*’s 1965 cover story “Drama of Life before Birth” which featured photographs of embryos and fetuses taken by Swedish photojournalist Lennart Nilsson to document the developmental stages of a human embryo. Included in this article was the first published image of a living fetus inside its mother’s womb. “Drama of Life” begins by discussing the process of fertilization, with images taken in a laboratory of male sperm and female egg to supplement the description. The next image is that of a three-and-a-half-week-old embryo. The article describes the visible bumps and protrusions of the embryo and tells the reader what the bumps will eventually become (limbs, etc.). The internal development of embryos and fetuses is documented throughout the article with detailed descriptions of the development of the heart, spinal cord, arteries, tongue buds, liver, and kidney. The article identifies eight weeks as the transitional time when a human embryo becomes a fetus. At the same time the role of DNA in heredity was being confirmed (James Watson and Francis Crick received the Nobel Prize in 1962).

Even before the mechanism of human fertilization and heredity was explained, Pius XI took the initiative of clarifying the teaching of the Church based on “nature” in the encyclical letter *Casti Connubii* (1930). He wrote:

“But no reason, however grave, may be put forward by which anything intrinsically against nature may become conformable to nature and morally good. Since, therefore, the conjugal act is destined primarily by nature for the begetting of children, those who in exercising it deliberately frustrate its natural power and purpose sin against nature and commit a deed which is shameful and intrinsically vicious”.

He applies the idea of “sin against nature” first to contraception, then to abortion:

“But another very grave crime is to be noted...which regards the taking of the life of the offspring hidden in the mother's womb. Some wish it to be allowed and left to the will of the father or the mother; others say it is unlawful unless there are weighty reasons which they call by the name of medical, social, or eugenic "indication"....As to the "medical and therapeutic indication" to which, using their own words, we have made reference... however much we may pity the mother whose health and even life is gravely imperiled in the performance of the duty allotted to her by nature, nevertheless what could ever be a sufficient reason for excusing in any way the direct murder of the innocent? This is precisely what we are dealing with here. Whether inflicted upon the mother or upon the child, it is against the precept of God and the law of nature: "Thou shalt not kill": The life of each is equally sacred, and no one has the power, not even the public authority, to destroy it. It is of no use to appeal to the right of taking away life for here it is a question of the innocent, whereas that right has regard only to the guilty; nor is there here question of defense by bloodshed against an unjust aggressor (for who would call an innocent child an unjust aggressor?)....Upright and skillful doctors strive most praiseworthy to guard and preserve the lives of both mother and child; on the contrary, those show themselves most unworthy of the noble medical profession who encompass the death of one or the other, through a pretense at practicing medicine or through motives of misguided pity.... Evil is not to be done that good may come of it”. And he adds: “Those who hold the reins of government should not forget that it is the duty of public authority by appropriate laws and sanctions to defend the lives of the innocent, and this all the more so since those whose lives are endangered and assailed cannot defend themselves. Among whom we must mention in the first place infants hidden in the mother's womb”.

This teaching was repeated and expanded by Pius XII in his 1951 *Allocution to Midwives*: “No “indication” or need can convert an act which is intrinsically immoral into a moral and lawful one. This precept is in full force today, as it was in the past, and so it will be in the future also, and always, because it is not a simple human whim, but the expression of a natural and divine law”.

Similar teaching, although increasingly specific because of the discoveries of embryology and new threats to life, are found in the work of the Second Vatican Council (*Gaudium et Spes* GS 51 § 3 - 1965), Paul VI (Congregation for the Doctrine of the Faith *De abortu procurato* - 1974), John Paul II (CDF *Donum vitae* -1987; encyclical letter *Evangelium vitae* - 1995).

The best source for current Catholic teaching is the *Catechism of the Catholic Church*, originally published in French in 1992, in English (from the French) in 1994, and in a definitive Latin edition (slightly amended) in 1997.

2270 Human life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person—among which is the inviolable right of every innocent being to life. ⁷²

Before I formed you in the womb I knew you, and before you were born I consecrated you. ⁷³

My frame was not hidden from you, when I was being made in secret, intricately wrought in the depths of the earth. ⁷⁴

2271 Since the first century the Church has affirmed the moral evil of every procured abortion. This teaching has not changed and remains unchangeable. Direct abortion, that is to say, abortion willed either as an end or a means, is gravely contrary to the moral law:

You shall not kill the embryo by abortion and shall not cause the newborn to perish. ⁷⁵

God, the Lord of life, has entrusted to men the noble mission of safeguarding life, and men must carry it out in a manner worthy of themselves. Life must be protected with the utmost care from the moment of conception: abortion and infanticide are abominable crimes. ⁷⁶

2272 Formal cooperation in an abortion constitutes a grave offense. The Church attaches the canonical penalty of excommunication to this crime against human life. “A person who procures a completed abortion incurs excommunication *latae sententiae*,”⁷⁷ “by the very commission of the offense,”⁷⁸ and subject to the conditions provided by Canon Law.⁷⁹ The Church does not thereby intend to restrict the scope of mercy. Rather, she makes clear the gravity of the crime committed, the irreparable harm done to the innocent who is put to death, as well as to the parents and the whole of society.

2273 The inalienable right to life of every innocent human individual is a *constitutive element of a civil society and its legislation*:

“The inalienable rights of the person must be recognized and respected by civil society and the political authority. These human rights depend neither on single individuals nor on parents; nor do they represent a concession made by society and the state; they belong to human nature and are inherent in the person by virtue of the creative act from which the person took his origin. Among such fundamental rights one should mention in this regard every human being’s right to life and physical integrity from the moment of conception until death.”⁸⁰

“The moment a positive law deprives a category of human beings of the protection which civil legislation ought to accord them, the state is denying the equality of all before the law. When the state does not place its power at the service of the rights of each citizen, and in particular of the more vulnerable, the very foundations of a state based on law are undermined....

As a consequence of the respect and protection which must be ensured for the unborn child from the moment of conception, the law must provide appropriate penal sanctions for every deliberate violation of the child's rights."⁸¹

2274 Since it must be treated from conception as a person, the embryo must be defended in its integrity, cared for, and healed, as far as possible, like any other human being.

Prenatal diagnosis is morally licit, "if it respects the life and integrity of the embryo and the human fetus and is directed toward its safeguarding or healing as an individual.... It is gravely opposed to the moral law when this is done with the thought of possibly inducing an abortion, depending upon the results: a diagnosis must not be the equivalent of a death sentence."⁸²

2275 "One must hold as licit procedures carried out on the human embryo which respect the life and integrity of the embryo and do not involve disproportionate risks for it, but are directed toward its healing, the improvement of its condition of health, or its individual survival."⁸³

"It is immoral to produce human embryos intended for exploitation as disposable biological material."⁸⁴

"Certain attempts to *influence chromosomic or genetic inheritance* are not therapeutic but are aimed at producing human beings selected according to sex or other predetermined qualities. Such manipulations are contrary to the personal dignity of the human being and his integrity and identity"⁸⁵ which are unique and unrepeatable.

⁷² Cf. CDF, *Donum vitae* I, 1.

⁷³ *Jer* 1:5; cf. *Job* 10:8-12; *Ps* 22:10-11.

⁷⁴ *Ps* 139:15.

⁷⁵ *Didache* 2, 2: SCh 248, 148; cf. *Ep. Barnabae* 19, 5: PG 2, 777; *Ad Diognetum* 5, 6: PG 2, 1173; Tertullian, *Apol.* 9: PL 1, 319-320.

⁷⁶ *GS* 51 § 3.

⁷⁷ CIC, can. 1398.

⁷⁸ CIC, can. 1314.

⁷⁹ Cf. CIC, cann. 1323-1324.

⁸⁰ CDF, *Donum vitae* III.

⁸¹ CDF, *Donum vitae* III.

⁸² CDF, *Donum vitae* I, 2.

⁸³ CDF, *Donum vitae* I, 3.

⁸⁴ CDF, *Donum vitae* I, 5.

⁸⁵ CDF, *Donum vitae* I, 6.

Note the extensive use of *Donum Vitae*, the instruction on "Respect for Human Life in its Origin and on the Dignity of Procreation" which was issued on February 22, 1987 by the Congregation for the Doctrine of the Faith under Pope John Paul II. It addressed biomedical issues and specifically indicated that the Church was opposed to *in vitro* fertilization (IVF). In 2008, the instruction *Dignitas Personae* was released as a supplement to address newer bioethical issues and technologies.

The right to life and modern utilitarianism

The best known representative of utilitarianism these days is Peter Singer (b.1946), an Australian moral philosopher who is now Professor of Bioethics at Princeton University. He agrees with pro-lifers that the embryo or fetus is a “living human being” but denies that all human life is sacred (“we should recognize that the fact that a being is human, and alive, does not in itself tell us whether it is wrong to take that being's life”). In 1995 he wrote an article in the London *Spectator* entitled “Killing Babies Isn't Always Wrong” which argued that the qualities that give life value are: being rational, self-aware (with desires and plans which would be cut short by death) and autonomous. Babies in the womb and even new-born babies do not have those qualities and hence should not have the same rights as humans who have such qualities. He refers approvingly to ancient societies which permitted infanticide (“which selected who will be allowed to become a member of the community and who will not”). If a child is not wanted, it is not wrong to take innocent human life. Singer believes that abortion and infanticide are also justified as methods of curbing overpopulation.

Singer states that arguments for or against abortion should be based on utilitarian calculation which compares the preferences of a woman against the preferences of the fetus. In his view a preference is anything sought to be obtained or avoided; all forms of benefit or harm caused to a being correspond directly with the satisfaction or frustration of one or more of its preferences. Since a capacity to experience the sensations of suffering or satisfaction is a prerequisite to having any preferences at all, and a fetus, up to around eighteen weeks, says Singer, has no capacity to suffer or feel satisfaction, it is not possible for such a fetus to hold any preferences at all. In a utilitarian calculation, there is nothing to weigh against a woman's preferences to have an abortion; therefore, abortion is morally permissible. Similarly, Singer argues that newborns lack the essential characteristics of personhood - “rationality, autonomy, and self-consciousness” - and therefore “killing a newborn baby is never equivalent to killing a person, that is, a being who wants to go on living”. Obviously, he admits, “most infants are loved and cherished by their parents, and to kill an infant is usually to do a great wrong to its parents”. However, “if a decision is taken, by the parents and doctors, that it is better that a baby should die - perhaps because the baby has a serious disability - I believe it should be possible to carry out that decision, not only by withholding or withdrawing life-support - which can lead to the baby dying slowly from dehydration or from an infection - but also by taking active steps to end the baby's life swiftly and humanely”.

Remember: for Catholics, every life, newborn or not yet born, has its own value.