



## The Ethics of Pregnancy: Towards an Integrated Approach<sup>1</sup>

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### I. Introduction

While it is not at all uncommon for named public lectures to be published, the connection between the occasion and the text is usually only recorded in a footnote. In the present case, however, for reasons internal to the narrative I will be developing, I wish to describe and reflect upon the source and intention of the lecture from which this essay derives. I also hope that this might encourage others, whether individuals, groups or corporate entities to endow public lectures, seminars and conferences on matters of general public interest and concern.

The original presentation was a lecture in an annual series addressed to themes in medical ethics hosted by Boston College. The series was established by the children of Frederick and Alice LaBrecque in honour of their mother and father and of important commitments in their parents lives: family, church, the health of mothers and babies and Boston College itself, the institution from which Frederick LaBrecque graduated in 1931. Like similar memorials this carries a noble intention and I was happy to be able honour that by addressing aspects of the ethics of pregnancy. Before I come to the matter of start-of-life issues, however, I wish to say more about the idea of honoring one parents and its implication for another area of ethical dispute, namely the end-of-life, typically in old age. This deserves attention in its own right but also because of symmetries and inverted analogies to the case of the ethics of pregnancy.

<sup>1</sup> The following derives from the 2014 LaBrecque Medical Ethics Lecture. I am grateful to my hosts the LaBrecque Lectureship Committee, especially Professors Patrick Byrne, and Jorge Garcia, and to Professor Cronin, also of Boston College, and to the many members of the LaBrecque family who attended. Preparation for the lecture was done while in residence at the University of Notre Dame Center for Ethics and Culture as the 2013–14 Remick Senior Visiting Fellow. I am very grateful to the director of the Center, Carter Snead and to the Mary Ann Remick Fellowship for the opportunities this provided.

The fourth item of the Decalogue, in the numbering favoured by Augustine and adopted by the Catholic Church, is ‘honour your father and your mother’. We are accustomed to referring to this and to the other nine declarations as ‘commandments’ but that expression only came into use in the sixteenth century, prior to which the favoured, and more accurate translation, was ‘words’ or ‘sayings’ – from the Greek rendering of the Hebrew *aseret ha-dibrot* as *deka logoi*, hence the ‘decalogue’. We are more familiar with the term ‘sayings’ in Gospel reports of the words of Jesus, but the Hebrew and Greek renderings, from which the English is derived, is the same in the case of both testaments.

The full saying in Deuteronomy 5, is ‘honour your father and your mother that your days may be long, and that it may go well with you in the land that the Lord your God is giving you’. This was addressed to the children of Israel, but it was absorbed by Christianity in its retention of the Hebrew bible though the meaning was extended beyond the original understanding of a territory between the Nile and Euphrates, promised to a specified peoples, the Israelites, to the religious idea of a state of personal existence offered to all who come to God the Father through Christ. In other words the Christian hope for eternal life depends in part upon honoring those who have giving us our natural, mortal lives.

Such a duty of parental piety would make sense to an orthodox Jew or to an adherent of most Asiatic religions; but in the West we are in danger not only of forgetting it, but of finding it offensive to our ballooning sense of autonomy and freedom. It is, however, something worth emphasizing in an era when the needs and dignity of the old are often sacrificed to the wants and ambitions of younger generations. Medical practitioners are familiar with situations in which families reason that the lives of elderly relatives are not worth continuing, that they would not wish to be a burden on the family, and that they would in fact want the younger generations to have the benefits of the resources that would be released by their deaths. In situations in which such considerations are advanced it can be hard to determine quite whose benefits are really in view, and what motives are primary. This is reason to be cautious and resist permissive euthanasia laws, as most general or family practitioners continue to do.

One prominent British philosopher, however, has gone so far as to argue not only that the ailing elderly may have a right to die, but that they have a duty to do so. Considering the familiar concern that ‘if people who are ill and dependent realize that they may lawfully be helped to die they will come to believe that it is their duty to ask for death’ she, Baroness Mary Warnock, bit the bullet, or perhaps I should say she chambered the round, aimed and fired, be it with a suppressor intended to reduce the noise and muzzle flash. For in an

essay published in the Norwegian periodical *Omsorg* (meaning ‘care’ or ‘solicitude’) entitled ‘A Duty to Die?’ she writes:

For a sincerely dutiful man, a good man, a dutiful death may be the proper end to his story. The duty to die, then, should not be thought of as something dire and horrible, lying in wait at the bottom of a slippery slope down which we shall descend if we liberalize the laws of murder.<sup>2</sup>

Here the point is put rhetorically in terms of someone who might accept, or be persuaded to accept death as an obligation, though note that the sentence refers to what would currently be deemed ‘murder’. In a subsequent interview with the Church of Scotland’s magazine *Life and Work*, however, she was less guarded and also made a point of targeting the Roman Catholic Church as a particular opponent. I quote: “They [what she describes as ‘members of the very dogmatic wing of the Roman Catholic Church’] have been absolutely completely opposed to any form of euthanasia or assisted suicide. But then she acknowledges another source of opposition, writing: “I think the animosity has come as much from the conservative wing of the medical profession as from the RC Church”<sup>3</sup>

Warnock makes no attempt to say what constitutes being religiously ‘very dogmatic’ or medically ‘conservative’ beyond opposing policies which she favours. Like the earlier talk of “a sincerely dutiful man, a good man” this charged vocabulary is an example of advocacy rhetoric extending to persuasive definition. Someone may sincerely feel, or be brought to feel a duty to submit themselves to death at the hands of a licensed euthanist without that sense of duty being morally correct. So the question of goodness cannot be part of the definition of dutifulness. More tellingly, Warnock goes on to discuss dementia sufferers as follows:

If you’re demented you’re wasting people’s lives – your family’s lives – and you’re wasting the resources of the National Health Service” . . . I think that’s the way the future will go, putting it rather brutally, you would be licensing people to put others down. Actually, I think why not? Because the real person has gone already and all that’s left is just the body of a person, and nobody wants to be remembered in this condition.<sup>4</sup>

Note again the way in which required rigor is displaced by rhetoric. Besides the question-begging use of the expression “the real person”, it does not follow from the fact that someone may not wish to be

<sup>2</sup> Mary Warnock, ‘A Duty to Die?’ *OMSORG* 2008 (4) 3–5.

<sup>3</sup> Jackie Macadam ‘A Duty to Die?’ Profile of Baroness Mary Warnock, *Life and Work*, October 2008, 23–5. See also Mary Warnock and Elisabeth MacDonald, *Easeful Death: Is there a Case for Assisted Dying* (Oxford: OUP, 2009)

<sup>4</sup> Jackie Macadam, ‘A Duty to Die?’ 25.

remembered as being in a state of dementia that they would wish to be killed when they are in that state, let alone that this would justify licensing others to ‘put them down’. As will be relevant to later argument, part of what is involved in our ethical dealings with others is solidarity, and that is most necessary when the others are weak and seemingly in ‘solitary confinement’. Respect is due not only in circumstances that may occasion happy memories but in ones that may be hard to witness and painful to recall, as in cases of senile dementia or of detected foetal abnormality.

## II. Towards an Integrated Approach

It is proper, then, that the children of Frederick and Alice LaBrecque continue to honor the lives of their parents and particularly apt that they should do so in part by choosing to provide for a lecture intended to address ethical matters having to do with maternal and fetal issues. The particular aptness lies in the fact that Dr LaBrecque was an obstetrician and gynaecologist who oversaw the delivery of more than *twelve thousand* babies. While gynaecology and obstetrics overlap they are distinct practices: the first being addressed to the health of the female reproductive system while the second concerns the care of women throughout and immediately beyond the course of pregnancy; and as pregnancy (and birth) is the natural end for the sake of which the reproductive system operates, it is this which is primary. It has become easy to forget this, however, because now gynaecology is often seen as treating conditions of the uterus and vagina quite apart from reference to fitness for pregnancy, and instead in relation to sexual function where that is understood non-reproductively. This is one of the further consequences of the effective disconnection of sex and conception.

Before passing to the issue of an integrated approach to the ethics of pregnancy, however, I need to make a couple of further points. First, it is part of the rubric of the LaBrecque series that lectures should focus on medical ethics, relating to maternal and fetal issues ‘from the perspective of the Roman Catholic Church’. While I am a Catholic I do not hold any teaching office or representative role within the Church. I am a philosopher, and hope that what I have to say might be of interest to readers whatever their position about religion, but I do want to say something about Catholic views, since they are often misrepresented, knowingly or unknowingly, or evaded or set aside – and regrettably these misrepresentations, evasions and relegations are sometimes committed by Catholics claiming to be in line with authentic Catholic traditions or in keeping with ‘the spirit of Catholic thought’.

Second, let me offer a remark about the idea of an ethics of pregnancy and explain what I mean by the subtitle: ‘Towards an

integrated approach'. While it should be obvious that 'the ethics of pregnancy' is a theme deserving of attention, the current state of bioethics is such that pregnancy itself has come to be viewed as somehow incidental to ethical issues. Part of the explanation, I think, is the previously mentioned disconnection, through contraception and abortion, of sex, conception and birth, but whatever the cause the effect is striking when one comes to notice it. By way of example, the *Oxford Handbook of Bioethics* published in 2007 is over 700 pages long and has an index of over 1200 entries but 'pregnancy' does not feature among them. 'Part V' is entitled 'Reproduction and Cloning' and it contains 3 articles but they consist of a review of arguments about abortion based on the moral status of *the embryo*, a discussion of the implications of embryo status for *stem cell research*, and an examination of the politics of *therapeutic cloning*. It is as if it were forgotten that human babies are normally and naturally the result of a complex biological process beginning with sexual intercourse and conception, proceeding through gestation, and leading to birth. The neglect is not total, however, and I am pleased to say that the Catholic philosopher Helen Watt of the Oxford Anscombe Centre has been working on a study entitled *Childbearing: The Ethics of Pregnancy, Abortion, and Childbirth*.

The inclusion of 'Towards' in my title is because this is a very large subject and my contribution is limited. By an 'integrated approach', I have in mind several things. First, an approach that integrates the ethics of pregnancy within a broader ethical view about how to respond to human beings especially in vulnerable conditions, such as the treatment of the elderly – which will return me to the symmetry mentioned earlier. Second, one that draws on different kinds of analysis of the nature and significance of pregnancy: medico-scientific, psychological and sociological, as well as ethical and philosophical, rather than opposing them as is commonly done in the interest of rationalising one or other antecedently favoured position. Third, and within the field of philosophy itself, one that seeks to integrate metaphysics with epistemology and phenomenology, as well as with ethical and political theory. While I want to give some attention to the experience of human value, those who come out of the phenomenological tradition tend to see this approach as an alternative to natural law ethics, and also to neo-Kantian and other forms of ethical rationalism, whereas I regard these three as complementary perspectives, and even as individually incomplete parts of a jointly sufficient form of philosophical ethics.<sup>5</sup> And since the kind of approach represented by traditional natural law is a form of ethical naturalism rooted in

<sup>5</sup> For more on this see John Haldane, 'Reasoning about the Human Good and the Role of the Public Philosopher' in R. George and J. Keown eds. *Reason, Morality and Law: The Philosophy of John Finnis* (Oxford: OUP, 2013) Ch. 3.

an account of the nature of the human person this offers a bridge to physiological, psychological and sociological considerations as does the phenomenological approach.

### III. Natural law ethics, Aquinas and abortion

Before that, however, I need to return to the previous point about the representation of Catholic views on the ethics of pregnancy and in particular the question of abortion, both as a matter of personal morality and as a subject of public policy. I remind you that I am dealing with these issues as a philosopher not as a religious believer or as theologian, but since traditional Catholic teaching on these topics is as much a matter of philosophy as of theology that need not be a disadvantage. We can see the philosophical character of Catholic argumentation very easily if we note the recurrent invocation of Aquinas in intellectual presentations of Catholic ethical positions and then look at what Thomas himself has to say. I quote from a famous discussion of natural law in the *Prima Secundae* of the *Summa Theologiae*:

[T]his is the first precept of law, that “good is to be done and pursued, and evil is to be avoided.” All other precepts of the natural law are based upon this: so that whatever practical reason naturally apprehends as human good (or evil) belongs to the precepts of the natural law as something to be done or avoided.

Since, however, good has the nature of an end, and evil the nature of a contrary, so all those things to which the human being has a natural inclination, are naturally apprehended by reason as being good, and consequently as objects to be pursued, and their contraries as evil, and objects to be avoided. As a result, the order of the precepts of the natural law is according to the order of natural inclinations. In the human being there is primarily an inclination to good in accordance with the nature which he has in common with all substances: inasmuch as every substance according to its nature seeks the preservation of its own being. By reason of this inclination, therefore, whatever is a means of preserving human life, and of warding off its impediments, belongs to the natural law.<sup>6</sup>

More than proponents of any other ethical theory, advocates of natural law tend to be opposed to abortion. Their argument is straightforward, combining the general prohibition on the taking of innocent human life with the claim that a foetus in the womb is an innocent human being. Equally, and for parallel reasons, they tend strongly to

<sup>6</sup> *Summa Theologiae*, Ia IIae, q 94, a. 2. <http://home.newadvent.org/summa/2094.htm#article2>

oppose euthanasia, most clearly in cases in which a patient has not given consent to having themselves killed, or is incapable of giving such consent. The matter of voluntary euthanasia and assisted suicide is admittedly more complex but again the preponderance of natural law opinion is against it. Opponents of the prohibition on intentionally taking life in the womb contend either 1) that it is not always wrong to kill the innocent, or 2) that the foetus is not an innocent human being either because a) it is not innocent in the relevant sense, or because b) it is not a human being, and sometimes they maintain all of these counter claims.

Here I have in view as especially requiring clarification the issue of what kind of thing a human embryo or foetus is, but let me first address the question of why it is wrong intentionally to kill innocent human beings. Aquinas suggests a partly metaphysical answer, namely that it violates the good of being, and more specifically violates the high, and perhaps highest natural good, which is that of the kind of being that a human is. But we might consider another kind of argument, a broadly pragmatic one in the sense of being action-oriented.<sup>7</sup>

What could a human ethic involve if it did not include a prohibition on intentionally killing the innocent? What could it offer as a higher value to be aimed at over respect for innocent life? Possibly the achievement of one's well-being whatever the cost to others? or perhaps the preservation of the species? or maybe the attainment and maintenance of peace and order. But the first could only be self-defeating, since with each concerned to further his or her own good there could be no possibility of the safety and stability necessary for the realisation and maintenance of individual well-being. The ethics of species-preservation suffers a similar kind of incoherence. For it is quite clear, particularly in the modern world, that the only hope of saving human kind is by a policy built upon respect for individual human life. Similarly with the aim of attaining and maintaining peace and order. The belief that one may kill the innocent is self-defeating with respect to whatever other value is given priority. One who urges that it is acceptable to act in this way is unlikely to live to see the kind of society he or she wants; nor could such a society be expected to survive; since from its very moment of conception it

<sup>7</sup> It is unfortunate, I think, that the term 'pragmatism' is used in *Fides et Ratio* in a part of the encyclical concerned with criticizing various philosophical 'positions': "No less dangerous is *pragmatism*, an attitude of mind which, in making its choices, precludes theoretical considerations or judgements based on ethical principles". While there is a familiar use of "pragmatic" in which it is contrasted with taking note of moral reasons this is not implied by the philosophical theory advanced by C.S. Peirce who was committed to the immutability of truth, see 'A Neglected Argument for the Reality of God' in *Collected Papers of Charles Sanders Peirce* edited by Charles Hartshorne and Paul Weiss (Cambridge, MA.: Harvard University Press, 1935) Volume 6, paragraphs 452–485.



would be vulnerable to the activities of those who like its architects adhere to a doctrine of justified killing.

For anyone who is persuaded either by Aquinas's metaphysical argument concerning the good of human being, or the pragmatic argument that respect for innocent human life is a condition of the possibility of any human ethic, the question of the permissibility of abortion will tend to be directed to the status of the human embryo or foetus. One thing that is commonly then said by defenders of abortion is that while this entity is 'human', in the *adjectival* sense, it is not 'a human' in the *substantival* sense but is at most 'a potential human being'. This typically arises from a logico-linguistic confusion. There is an ambiguity in the use of animal sortal terms such as 'human', or 'cat'. Sometimes they are used *generically* or specifically to say what *kind* of animal something is; but at other times they are used *phasically* to refer to a *stage* or period of animal development. Someone may say, for example, that because a feline embryo has the potential to become a mature cat it does not follow that it is one at the embryonic stage. Indeed not, but the issue is not whether it is a *mature* cat but what kind of thing it is and the answer to that is 'a *cat*' in the specific sense, just as it would be if it were a kitten.

The interlocutor I am imagining is confusing the issue of natures with that of phases or stages in the life of an animal. While an early feline embryo let alone a feline blastocyst may not look like a mature cat, and certainly it is not at all the sort of thing you would depict in a child's picture book to illustrate the word 'cat', the varying appearance of this or other kinds of animal at different developmental stages gives no reason to doubt that what is present is one and the same individual of a given specific kind. Indeed, the concept of developmental phases presupposes this. The point might also be made by considering the claim that one only has to look to see that caterpillars are not butterflies or moths. Certainly they look very different and there is of course a sense in which they are indeed distinct but that is at the level of a phases not specific natures: caterpillars are larvae and are as much members of their various Lepidoptera species as are mature adults: they are the *larval form* of butterflies and moths. Disambiguate 'phasals' and 'specifics' and the source of the fallacy is clear. Just so with embryo, foetus, infant, child, etc., all are phases or *stage-forms* in the life of one and the same specific animal: a human being.

Likewise, for talk of potentiality. We need to distinguish the potential for a human to come into existence, from the potential for developed human activity that is present in virtue of already being a human. Egg and sperm are the principle components of the former, and the blastocyst constitutes the realisation of that potential. An embryo, by contrast, is not a potential human animal but a human



animal with potential. To destroy it is to kill a human being; and if such killing is wrong in general then it is wrong in the case where the blastocyst is destroyed for stem cell research, or in which the embryo or foetus is destroyed because it is not wanted. In both situations one is inescapably confronted with the issue of killing an innocent human being, and it is hard to see how that can be justified without giving up a belief that is central and foundational within human morality more generally.

It is understandable that those who have not been alerted to the logical distinction between phasal and specific sortals or made familiar with the metaphysical concepts of potentiality and actuality might become prey to the fallacies I have been discussing; but it is a cause of confusion and doubt when it is said by those who claim knowledge of the metaphysics of Aquinas that an argument in defence of abortion can be made on the basis of his philosophy, and even to suggest that he himself would favour such a position.<sup>8</sup> This is sometimes asserted by those hostile to Catholic views who know the prestige and influence of Aquinas within Catholic tradition and wish precisely to cause confusion. Regrettably however, it is sometimes advanced by Catholics who will say approvingly that for Aquinas a human being does not come into existence until at least six weeks after conception, and that Thomas is an advocate of the theory of 'delayed hominisation'. Let me quote from one recent example of this:

[T]he absolute opposition to abortion constitutes a significant shift in the Catholic position . . . Until the late nineteenth century there was widespread debate among theologians as to the relative morality of early and late abortion, with a widespread consensus that early abortion was a less grave sin than late abortion. This was informed by the Aristotelian and Thomist belief that 'ensoulment' was not simultaneous with conception, but that the early foetus went through various stages of pre-human development before it acquired a soul and became fully human: a process known as 'hominization'.<sup>9</sup>

Certainly Aquinas and others who followed him (as he followed Aristotle), believed that a human being is not present in the womb until about forty days after conception in the case of a male and ninety days in the case of a female, but this rests not on his metaphysical views but on grossly false embryological beliefs, such as that the foetus is made of congealed menstrual fluid, or that female offspring are the result of impediments to the proper functioning of

<sup>8</sup> For further discussion of these matters see John Haldane and Patrick Lee, 'Aquinas on Human Ensoulment, Abortion and the Value of Life' *Philosophy* 78, 2003 (3), 255–278 and 'Souls and the Beginning of Life' *Philosophy* 78 (4), 521–531.

<sup>9</sup> Tina Beattie, 'Catholicism, Choice and Consciousness: A Feminist Theological Perspective on Abortion' *International Journal of Public Theology* 4, 2010, p. 59, also, in briefer form, in 'Abortion, Tradition and Compassion' *The Tablet* 4 June, 2010.

the male seed, and one should no more rely on these errors than one would on his belief, for example, that animals may be generated spontaneously from rotting vegetation.<sup>10</sup>

Evidently, to interpret and evaluate the worth of Aquinas' views we need to distinguish his empirical claims from his metaphysical ones. Prior to the section from which I have just quoted, the writer states "I avoid scientific debates about embryonic development, because I am primarily concerned with philosophical, theological and linguistic questions about human personhood and its conditions for becoming".<sup>11</sup> But one cannot discharge empirical premises from arguments just because other premises are philosophical. The writer seems to recognize this writing just a couple of pages later of "a failure to take seriously the significance of foetal development and viability with regard to the ethics of late abortion in particular". Further, it is Aquinas's 'scientific' premise that misleads him. If we turn, however, to the philosophical aspect of his view, part of the latter is the idea that in order for the rational soul to be infused, certain material conditions have to obtain. In particular there must 'be' that upon which the rational soul's activities rely. But this is where understanding notions of actuality and potentiality and varying degrees of these is critical. What is necessary for ensoulment is the material organisation sufficient for the development of those organs upon which sentient and rational life will depend, but that condition will be met by the existence of the epigenetic primordia of the organs that support the operations proper to the species. As a matter of empirical fact the brain is not sufficiently developed actually to support conceptual thought until some months after birth. So, if one were to say that it is not sufficient that the developmental conditions be present, rather the fully developed organ must be there and functioning, then we would have to say that an infant of say two months is not even a human being, and that is absurd.

Aquinas writes: "It belongs to the natural order that a thing is gradually brought from potency to act. And therefore in those things which are generated we find that at first each is imperfect and afterwards is perfected".<sup>12</sup> The ovum is a highly organised living cell, containing complex specific information in the genetic structure of the nuclear chromosomes. This information, together with that provided by the genetic structure in the chromosomes of the male sperm, guides the development of the new organism formed by the fusion of sperm and ovum. Hence the ovum is close to readiness for rapid embryological development; it only requires fusion with the sperm and the activation that occurs with that fusion. To a certain extent the

<sup>10</sup> See *Summa Theologiae*, Ia, q. 105, a. 1, ad 1.

<sup>11</sup> *Op. cit.*, p. 53.

<sup>12</sup> *Summa Theologiae*, Ia q. 119, a. 2

gradual transition from the simple to the complex that Aquinas sought actually occurs during gametogenesis. Thus, applying Aquinas' metaphysical principles to the known embryological facts leads to the conclusion that the human being is present from fertilisation onwards.

One may choose to take issue with Aquinas's metaphysics but it is disingenuous to deploy gross errors in his empirical embryology, or careless not to note them and to suggest that he would have allowed for early abortion and would have been right to do so. One may as well argue that he would have allowed for the termination of pregnancies in which a female is being produced due to impediments in the reproductive process; but we have yet to hear a defender of abortion invoke him in that cause and it would be as well not to hold one's breath awaiting that development.

#### IV. Abortion and public policy

I turn next to the theme of public policy and the relation of ethical to political claims, confining myself to the question of abortion. Unlike certain increasingly prominent versions of political liberalism which hold that it is not the business of the state to advance or protect any conception of the morally good life, but only to provide a safe and procedurally just sphere for individual activity, natural law in its exclusively philosophical expressions, as, for example, in Cicero's *De Re Publica*, and in its adoption within Catholic Social Teaching holds that the laws of the state may, and on fundamental issues should reflect moral values and requirements. Accordingly it can hardly take a neutralist stance on questions of killing where it believes this killing to be unjustified. Consider in this connection the following passage drawn from a well-known statement on abortion issued by the Vatican Congregation for the Doctrine of the Faith:

The inalienable rights of the person must be recognised 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 . . . 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 . . . 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 legal sanctions for every deliberate violation of the child's rights.<sup>13</sup>

<sup>13</sup> *Donum Vitae: Instruction on respect for Human life in its origins and on the Dignity of Procreation. Replies to Certain Questions of the Day* (Vatican, 1987) III 'Moral and Civil Law'.

While I do not wish to lay special emphasis upon the following particular case, and certainly do not offer it in the spirit of sectional, let alone sectarian politics it is convenient to contrast this carrying through of the moral into the political sphere with the example of Vice-President Biden's statement on the matter of abortion in the 2102 Vice-Presidential Debate. I quote:

My religion defines who I am. And I've been a practicing Catholic my whole life. And it has particularly informed my social doctrine. Catholic social doctrine talks about taking care of those who can't take care of themselves, people who need help. With regard to abortion, I accept my church's position that life begins at conception. That's the Church's judgment. I accept it in my personal life. But I refuse to impose it on equally devout Christians and Muslims and Jews and I just refuse to impose that on others . . . I do not believe that we have a right to tell other people that women can't control their body. It's a decision between them and their doctor, in my view. And the Supreme Court, I'm not going to interfere with that.<sup>14</sup>

There is scope for argument even in natural law terms about the universal and unconditional opposition to abortion and euthanasia. For example, it may be recognised that respecting the rights of autonomy, which natural law regards as integral to human self-realisation, gives scope for tolerating error and wrong-doing at certain levels and to certain extents. However, anyone who believes that the laws of the state should embody fundamental moral principles and who also believes that certainly abortion and probably euthanasia are gross violations of such principles has little option but to resist legislative changes in the direction of liberalising these practices, and to strive to repeal such legislation once it has been enacted.

At the same time, concern for the overall good of society and acceptance of the fact that many seriously and sincerely hold a different view on such issues, must limit the forms of opposition. In this and in other matters the following balanced compromise may be reasonable: while one may certainly not give support to legislation which provides for or permits what one holds to be evils, one may yet accept the constitutional right of the state to enact such legislation and thus confine one's opposition to legally permissible forms. Necessarily this formulation is qualified by the phrase 'may yet accept'; for the evils might be so great that one then has no moral option but to break the law and, at the limit, to regard lawful government as having ceased to exist. If this seems extreme it is worth recalling that precisely this situation has faced the citizens of more than one state during the course of the twentieth century.

<sup>14</sup> See [www.npr.org/2012/10/11/162754053/transcript-biden-ryan-vice-presidential-debate?ft=1&f=139482413](http://www.npr.org/2012/10/11/162754053/transcript-biden-ryan-vice-presidential-debate?ft=1&f=139482413)

Put another way, there is a limit to how much ethical freedom a society can or should withstand, and a fortiori how much morally committed political leaders should be willing to accommodate. Here, of course, I am speaking of the extremes, but even the more limited claim that one may certainly not give even tacit support to legislation which provides for or permits what one holds to be evils is, as the Biden quote indicates, contested by among others, those who see themselves as thinking and acting in the spirit of Catholic social teaching. Once again there is also the tendency to be selective, favouring that teaching when it favours one's own views and setting it aside or even continuing to invoke it in name when it does not. Vice-President Biden seems unaware of the irony of avowing his commitment to the Catholic teaching about taking care of those who cannot take care of themselves while then saying that abortion is (i.e. should be) a matter of decision between a woman and her doctor. Who then is to take care of the human being in the womb? I hasten to add that this practice of selective affirmation and rejection of Catholic teachings is by no means confined to one side of the political debates in the US or elsewhere. It is a pervasive vice.

#### V. Protecting and promoting value(s)

I said earlier that we live in an age when the needs and dignity of the old are often sacrificed to the wants and ambitions of younger generations. It is also one in which the needs and dignity of human fetuses are often sacrificed to the wants and ambitions of older generations, and not only the parents of those foetal human beings. It is not uncommon, for example, for the parents, teachers, and employers of young pregnant women to encourage them to have abortions. I have indicated two lines of argument against the intentional killing of human beings in the womb, the metaphysical one and the pragmatic one. The latter bears a relation to the reasoning of Kant expressed in the Categorical imperative that one should only act on a policy that one can universalize, that is to say rationally will that others should follow; and one cannot, I suggest, rationally will as a universal maxim that one may kill the innocent for the sake of promoting some other end.<sup>15</sup>

Someone might reply that there is the welfare and interests of the mother to be taken account of, and perhaps those of others beside

<sup>15</sup> What the implications of the categorical imperative might be for the issue of abortion is a matter of some dispute. In a widely cited article Harry Gensler gives 'A Kantian Argument Against Abortion' *Philosophical Studies*, 49 (1) 1986, 83–98. This is then taken issue with by Lara Denis in 'Animality and Agency: A Kantian approach to Abortion' *Philosophy and Phenomenological Research*, 86 (1) 2008, 117–137.

and these are as much as a part of the human good as the welfare and interests of the human being in the womb. “Evidently there are terribly difficult cases which seem impossible to resolve without remorse, whatever one does; but it is a mistake to think that welfare can be weighed against life morally to justify intentional killing”. There are two positive moral attitudes to the good and goods of human life: protecting them and promoting them, but these are not co-equal or symmetrically ordered: value-protection is lexically prior to value-promotion. Indeed there is a kind of practical irrationality involved in seeking to promote a value one is not committed to protecting. This priority is related to the idea in the Catholic tradition of the inviolability of human life, and in the Kantian tradition to the ‘Humanity formulation’ of the categorical imperative, namely, we should never act in such a way that we treat Humanity, whether in ourselves or in others, as a means only but always as an end in itself.

In Kant’s technical formulations the notion of humanity is not the familiar one of that which we recognise in one another in as much as we identify each as fellow human beings, i.e. natural co-specifics. It is not what a child responds to in seeing a human face, or what an adult is moved by in recognizing the human form, whether in shape or in characteristic behavior and nor is it what might be described in a work of natural history. Rather it is a theoretical and normative construct, the idea of a subject-source of self-directed rational behavior. Given Kant’s high standards of pure practical rationality it is an open question to what extent ‘humanity’ in his sense coincides with human life in the more familiar sense, one which allows humanity even where powers remain weak, or have become weakened. Equally, not all who exhibit the constitutive feature of ‘humanity’ in his technical sense need to be biologically human.

## VI. Simone Weil and value phenomenology

Earlier I spoke of introducing an aspect of value phenomenology and also of recognizing that part of what is involved in our ethical dealings with others is solidarity. That towards which the kind of solidarity I have in mind is directed is humanity in the familiar sense; and the specific mode of recognizing humanity in this sense is not by way of reasoning let alone theorizing, but through a distinctive kind of experience: the sense of the presence and the value of another human being.

In her profound and memorable essay ‘The Iliad, or The Poem of Force’, written in 1940 the year that the Vichy anti-Jewish laws removed her from teaching, Simone Weil discusses the exercise of force, that is violence, defining it relationally, from its effects, as “that x that turns anybody who is subjected to it into a thing”, she

continues “Exercised to the limit, it turns man into a thing in the most literal sense: it makes a corpse out of him”<sup>16</sup> Later she explains how this is related to another force:

the force that does not kill just yet . . . but hangs, poised and ready, over the head of the creature it can kill, at any moment, which is to say at every moment.<sup>17</sup>

Human beings are capable of generating and exercising these destructive and threatening forces but this involves a kind of moral pathology, what is more familiarly described as the evil that can arise in men’s hearts and wills. Those who have read Herman Melville’s *Billy Bud Sailor* may recall the quiet and calculating form of this pathology at work in the character of the Master at Arms, John Claggart, who is challenged and aroused by Bill Budd’s innocent goodness and its appeal to his fellow sailors. At a crucial point in the novel we read that

His countenance changed. . . . but [he] checked himself, and pointing down [he] playfully tapped him from behind with his rattan, saying in a low musical voice peculiar to him at times, “Handsomely done, my lad! And handsome is as handsome did it too!” And with that passed on. Not noted by Billy, as not coming within his view, was the involuntary smile, or rather grimace, that accompanied Claggart’s equivocal words. Aridly it drew down the thin corners of his shapely mouth.

Billy’s goodness is something he has resolved to destroy, which in one sense he does though at the unexpected (and unknown) cost of his own life – being himself accidentally killed by the outraged Billy who is later executed on that account. Although he does not express this idea, as Melville represents Claggart it is in line with the corruption of his mind, heart and will that he might have accepted his own death as a price worth paying for Billy’s destruction. There can be martyrs to evil as well as to good and the exercise of the dehumanising of the other has to overcome a natural resistance which is the innocent force emanating from the other in so far as he or she is a human being. We might wish to say that the value-force of humanity exists even when it is not recognized, or that like a secondary quality it is something that is response-dependent while its intrinsic ground is humanity itself. On the latter account we may then say that the experienced value is an effect produced in a responsive human being by the presence of the humanity of another. In either event it is commonly and almost universally felt. Weil writes of how

<sup>16</sup> Simone Weil, ‘The Iliad, or the Poem of Force’, translated by Mary McCarthy in *Pendle Hill Pamphlet* no 91 (Wallingford, PA.: Pendle Hill Press, 1956) reprinted in the *Chicago Review*, 18 (2) 1965, 5–30, page references are to this later publication.

<sup>17</sup> *Op. cit.*, 7.



Anybody who is in our vicinity exercises a certain power over us by his very presence, and a power that belongs to him alone, that is, the power of halting, repressing, modifying each movement that our body sketches out. If we step aside for a passer-by in the road, it is not the same thing as stepping aside to avoid a billboard; alone in our rooms we get up, walk about, sit down again quite differently from the way we do when we have a visitor. But this indefinable influence that the presence of another human being has on us is not exercised by men whom a moment of impatience can deprive of life, who can die before even thought has a chance to pass sentence on them . . . At least a suppliant, once his prayer is answered, becomes a human being again, like everybody else.<sup>18</sup>

There is great insight and some mystery in these observations. It has to be said that for the most part Weil has in mind adult human beings, though later she writes of a mother's fear for what may befall her baby. Also in speaking of the cases where the indefinable influence is not exercised she means that we have so ordered ourselves that we will not permit it to take effect, since the subjects are already experientially objects for us, preparatory to our rendering them literally that: dead matter. Like Claggart we have hardened our hearts and closed our ears.

In making the case for recognizing the intrinsic value of unborn life we may follow Aquinas and invoke the metaphysical value of being and the convertibility of existence and goodness '*ens et bonum convertuntur*', which is to say the proportionality between levels of being and levels of value: the greater the greater.<sup>19</sup> Or we may appeal to the Kantian idea that an agent with interests must rationally constrain his or her actions in line with the requirement that they allow the realisation of the agency and interests of other human beings. But we may also, in consort with or having in mind these other considerations, appeal like Weil to the experience of the power that a human being who is in our vicinity exercises by his or her very presence, unless that power is resisted by the counter-disposition to destroy its source, or diminished by an a priori determination that it is not after all a human being. In this latter connection see the following from a related shorter article by the author whom I quoted previously on the matter of early abortion:

The idea of ensoulment serves as a reminder that the coming into being of a human person is not an instantaneous event but a gradual process, not only in terms of the biological process of fertilisation, implantation and cellular division, but also in terms of the developing consciousness of the mother and her relationship to the child. Given that in Christian theology the understanding of personhood is fundamentally

<sup>18</sup> Op. cit., 9.

<sup>19</sup> *De Veritate*, I, 2, ad 2.,

relational because it bears the image of the triune God, it is hard to see how an embryo can be deemed a person before even the mother enters into a rudimentary relationship with it. As many as one in four pregnancies may spontaneously abort during the first eight weeks of pregnancy, often without the woman knowing that she was pregnant. It is morally nonsensical to attribute personhood to the contents of the womb in such situations and, as some Catholic ethicists point out, the logical corollary of this position is that a woman should baptise every menstrual period.<sup>20</sup>

There are a number of problems with this. First, even allowing that human personhood might be constituted by relations it does not follow that this status is dependent upon the mother, after all in the context of an appeal to theology there is an obvious candidate for the source of a status-conferring relation namely God. Second, the view which I am recommending has it that the moral status of a being may be *recognized through* a certain kind of phenomenological response, it does not hold that that status is *constituted by* this response – any more than that pregnancy is constituted by the diagnosis of it. In the longer article from which I quoted first, the author writes that “philosophical concepts of personhood that fail to recognize any relational dimension to the human offer a diminished understanding of what it means to be a person”.<sup>21</sup> I agree but that is not to say that being human is a (partial) function of being an object of another’s consciousness. Third, the view that there is a human being present from implantation or segmentation, say, does not have the implication that if there should be a spontaneous abortion prior to 8 weeks the embryo should be baptized, anymore than that a foetus killed at 12, 16, 24 or 32 weeks should be baptized: one cannot baptize a corpse – though of course one may utter a form of words over it, as one may over a stick or a stone. Given the theological understanding of baptism as a sacrament and the conditions necessary for it the most that could be said is what is stated in the *Code of Canon Law* (871): ‘If aborted fetuses are alive, they are to be baptized insofar as possible’. The remark about baptizing “every menstrual period, just in case” is, therefore, irrelevant, and insensitive to those who have knowingly suffered a miscarriage. It has a counterpart in the longer article where the purpose is again to reduce to absurdity Catholic opposition to early abortion. This is approached via an implicit expression of the adjectival /substantival distinction I noted earlier and by contrasting uses of ‘human’ and ‘person’.

<sup>20</sup> Tina Beattie, ‘Abortion, Tradition and Compassion’ *op. cit.* The same line of argument is presented *inter alia* in ‘Catholicism, Choice and Consciousness’.

<sup>21</sup> ‘Catholicism, Choice and Consciousness’ p. 62.

The fertilized zygote is living human tissue but we have to question whether it is a person. In the theological tradition, human personhood refers to the creature made in the image of God, endowed with freedom, rationality and intrinsic dignity, and called into relationship with God . . . .

Moreover the attribution of personhood to the conceptus, coupled with the high incidence of the failure to implant, suggests that every menstrual period should be subjected to microscopic scrutiny just in case it contains a human person. This suggests how ethically nonsensical the Catholic Church's present position is.<sup>22</sup>

It simply does not follow, however, from the claim that a conceptus, a zygote or an early embryo is a human being that the loss of such must always be looked for. The ethical issue after all is not *per se* the death of human beings in their earliest stages but the intentional destruction of them. Additionally, the various moves between 'human', 'human person' and 'person' tend to involve the equivocation over 'potential' discussed earlier. That x has some unactualised potentialities characteristic of an A does not show that it is not an A, since it may be an A whose potentialities are as yet unactualised. Indeed that may be the best explanation of its having those unactualised capacities. No one thinks that a mouse conceptus, zygote or early embryo is a person in the making, precisely because we know that it does not have a relevant rational nature. Certainly a human conceptus, zygote or an early embryo does not exhibit freedom and rationality; but this no more shows that they are not made in the image of God than does the fact that in an infant (or indeed an intellectually disabled teenager or elderly adult) these same capacities may be unactualised, impeded or diminished.

In applying the phenomenology of the value of humanity as it exists in the embryo or foetus it may seem as if I am here appealing to pregnant women only, as if matters lay exclusively with them. But the capacity to feel, or to be struck in thought by, and to respond to the moral force naturally exercised by any human being, including an embryo or foetus is not a matter of individual moral sensibility, or humanity alone. It is something shareable like aesthetic sensibility or reflective judgement that can be encouraged and trained, or discouraged and repressed, or simply overwhelmed by countervailing voices and cultural influences. Again I return to the correspondence between the situation of the diminished elderly moving to the edges of the field of human interaction, and that of the early stage human beings who are only just entering it. Under these conditions it is easy to de-humanise both, and thereby set the conditions for eliminating them – easier certainly than it would be to do so to the sort

<sup>22</sup> Op. cit., p. 61.

of stereotypically regular figures that constitute the casts of happy adverts, popular television programmes and films. But that makes it all the more important that we work to avoid privileging the visible and the capable.<sup>23</sup>

The human condition is this: we come into a world not of our own making, under conditions we did not choose, and live in circumstances over which we have little and only temporary control. The primary concern of ethics flows from these conditions and our capacity to recognize and respond positively to them. It is to show solidarity, which may be close to the idea of Christian charity: to protect the vulnerable and not to threaten the innocent with death. That I suggest is the place to start in working towards an integrated approach to the ethics of pregnancy. This, of course, is not meant to suggest that a 'pro-life' ethic can avoid tragedies, or be without great cost, indeed it may require embracing them and enduring otherwise avoidable difficulties. All the more important, then, that this not be left to pregnant women alone.

At the same time, however, it should be remembered what the consequences are of making it easier to kill the unborn: not only that many millions of human lives are destroyed but that the sensibility to life is coarsened and the culture becomes more deeply self-concerned and brutish, which in turn is liable to make killing the innocent all the easier. It is not externally necessitated, however, that the course of events always runs in that direction and there are signs, particularly among younger people, of a turning towards the greater protection of human life. That is something that must be encouraged and supported especially within the context of colleges and universities where the intellectual leadership of society is being formed, and I congratulate Boston College, as well as members of the LeBrecque family, for co-operating in the establishment and maintenance of this series of lectures.

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<sup>23</sup> On this in relation to Martha Nussbaum's work *Hiding from Humanity* (Princeton: Princeton University Press, 2004) see John Haldane, 'Recognising Humanity' *Journal of Applied Philosophy*, 25 (4) 2008 and Martha Nussbaum's reply in the same issue.