

## CHAPTER VI

# *ETHICAL ARGUMENTS*

### The Limits of This Chapter

In previous chapters we have examined a number of factual and historical aspects of abortion. The facts of biology, the medical and sociological data concerning abortion itself, and the histories of religious attitudes and the development of various types of abortion laws and proposed laws—these have engaged our attention to the extent that they enter into current ethical or legal arguments. But such arguments also have a theoretical dimension. When all the facts are in—even if all agreed about them—there still remain different judgments on the morality of abortion and on how the law should regard it.

I propose to examine and criticize some arguments leading to these various judgments and to set forth and defend my own position. The ethical question and the legal question should be distinguished, because not every immoral act can be forbidden by law, nor is every illegal act also immoral, except insofar as the citizen ought to obey just laws. Therefore, this chapter will consider ethical arguments, and chapter seven will treat those pertaining to law.

My approach in both of these chapters, even when considering arguments proposed by theologians, will be that of a philosopher, rather than that of a man of faith. Although I personally have religiously grounded convictions in this matter, I would not expect those who do not share my basic commitment of Roman Catholic religious faith to share the moral convictions flowing from that faith. For those inclined to credit the authority of the Judeo-Christian religious tradition, the exposition of that tradition—its breadth, its coherence, its constancy—may by itself settle the moral question. But others may find rational arguments more helpful in reaching a sound ethical judgment on abortion, and religious believers, too, may wish to examine the reasonableness of their moral convictions and to test alternative views by critical argument.

As a philosopher, I undertake an essay rather than a demonstration. Philosophy seeks to refine argument by criticism; it pursues the definitive truth through an ever-expanding process of argument. The answers to one set of

objections do not conclude a matter so that no further argument is possible, but rather give rise to a new set of objections of a more subtle and remote kind. The terrain of battle changes but the war of words never ends. Yet genuine progress can be made, since the final inadequacy of some positions can be seen, and more reasonable, less inadequate positions can be developed.

Though no one enjoys having his own view rejected, the philosopher in his professional capacity must be ready for the counter-arguments sure to be offered even—or especially—against the most competently reasoned philosophic position. Yet the philosopher has good reason to be dissatisfied if his originality elicits merely the reiteration of arguments which he has considered and answered. Those who do not meet a new argument with new objections are not doing philosophy, but merely using reason in the service of convictions maintained on other grounds.

In some societies those other grounds, impervious to the light of reason, have been religious and other cultural traditions received without reflection and maintained by the psychological and social pressures of taboo and conformity. In our contemporary society, the source of irrational convictions is more likely to be “experience.”

Genuine experience cannot be set aside, but neither can it settle ethical issues, for our experience itself is shaped by our commitments and our viewpoints. Moreover, much that goes by the name of “experience” is not truly so, for the edited and contrived contents of communications through the mass media probably provide more of the concrete basis of unreflective moral attitudes than does lived experience in the real social and physical environments with which we are in direct touch.

Yet in every moral disagreement we find more and more persons who attempt to support their diverse and incompatible views by a simple appeal to experience, as if such an appeal were a final and unanswerable argument. In fact, experience is no argument at all. Our convictions may in fact arise out of our experience, but this fact is not itself a reason why we ourselves—much less anyone else—should regard these convictions as sound. The validity of our moral judgments must be examined by reasonable arguments; only in this way can we commend to others the convictions we have confidence in. For not all of us share the same experiences or derive from our experiences the same attitudes. If we did, there would not be ethical disagreement in the first place. An effort to settle such disagreement must rise above experience. The adoption of a moral judgment in the light of reason also leads to an effort actively to alter experience by adjusting one’s viewpoint and establishing new ways of acting and reacting.

One attempt to invoke experience as an argument has been made by James M. Gustafson, Professor of Christian Ethics at Yale University. He criticizes past rational arguments against abortion as abstract and juridical efforts by those not involved to pass judgment on the actions of others. He proposes instead to show how a judgment may be made in a particular case by someone

actually involved as a moral counselor. After providing a rather detailed description of a case and listing principles he accepts, Gustafson then concludes: "My own decision is: a. If I were in the woman's human predicament I believe I could morally justify an abortion, and thus: b. I would affirm its moral propriety in this instance."<sup>1</sup>

We must notice that in setting out a limited set of facts about the case he discusses, Gustafson himself has actually presented us with an abstraction which might occur in an indefinitely repeated set of cases. Moreover, in stating his belief that he could justify abortion in this instance, he is making a judgment the validity of which is independent of whether one is involved or not. Whoever makes an ethical judgment affirms that if he or anyone else were in the position of agent, that ethical judgment would be a sound guide for acting. As a matter of fact, it is not the apparatus of description and the perspective of involvement that determine Gustafson's conclusion; rather that conclusion is a product of a general ethical-theological theory akin to that of Helmut Thielecke, which we shall consider later in this chapter.

Gustafson and others are quite right in pointing out, however, that the ethical aspect of abortion is not limited to the simple question of whether it is morally right to have or perform abortions, either in general or in various kinds of cases. The factors which lead to abortion, the real difficulties of women in trouble, the social injustices which make life difficult, the conflicting pressures felt by morally sensitive physicians—all these are factors which deserve ethical examination. It would indeed be tragic if we were to conclude that the sum total of relevant ethical wisdom consisted in the mere prohibition of abortion, and that all the relevant demands of morality would be fulfilled if only abortion were not practiced. Even if abortion is judged never to be morally justified, still an affirmative attitude toward nascent life and the promotion of conditions in which new persons will be received with love and joy will be more fundamental than the mere avoidance of abortion.

Yet nothing is more relevant to one who suffers it than his own death. And nothing affirmative can remain unless the ethical boundaries of the inviolability of life—wherever those boundaries should be drawn—are recognized and respected. The other important ethical issues related to abortion are not nearly so complex theoretically or so deeply disputed in current argument as the single question: Is it ever right to have or perform an abortion, and if so, under what conditions? Therefore, we shall limit our ethical inquiry to this question.

The suffering of persons of sensitive conscience who are in anguish because they wish to do what is right but do not see clearly what the right course would be, is at least as deserving of our compassion as any other form of human misery. Hence the effort to clarify difficult ethical problems need not be a matter of cold logic, lacking in compassion, even if ethical reflection leads to a judgment at odds with that which would be endorsed by sentiment unshaped by ethical concern.

The assumption, so often unthinkingly made today, that firm moral standards are inimical to sensitive love is based upon a twofold misunderstanding. First, moral standards are imagined as a kind of strait-jacket, inhibiting the normal exercise of human abilities. In reality, sound morality, even in its strictest prohibitions, marks the way to a fuller and richer human life, rather than the narrow and anemic existence we are tempted to settle for. Second, the assumption about love and moral standards assumes that the center of the person is more to be found in the satisfaction of spontaneous impulses than in the fulfillment to be gained by fidelity to others, to one's ideals, and to the possibilities of human progress which can be fulfilled only by self discipline, patience, and careful thought.

#### Subjectivism and Relativism

An attitude not supported by ethical argument but frequently expressed in popular discussion is that there is a simple answer: Abortion is right for those who think it is right, and wrong for those who think it is wrong.

This attitude takes two different forms. Some feel that the moral issue is settled by the opinion of each individual judging his own case. Others suggest that morality is relative to the particular culture to which one belongs, so that abortion is right where and when a society views it as such, and wrong when that is the view taken of it.

When we say that abortion is right or wrong, however, we seem to claim more than merely to express a wholly relative or subjective opinion. We think that those whose moral attitude is different from our own really disagree with us, and yet disagreement would be impossible if complete subjectivism or relativism were correct. In fact, it is difficult to see why anyone would ever try to argue the ethical issue if this attitude were correct.

Moreover, if this attitude were correct in regard to abortion, it is difficult to see why it should not also be correct with regard to any other kind of act. But when someone does something to us that we believe to be unfair, we do not say that if he believes it was right, that made it right for him. If Hitler was quite sincere about his ideas of racial purification, that has not convinced the world that genocide was right for him.

Similarly, a thorough-going social or cultural relativism renders ethical criticism impossible. If abortion is right for those who live in a society where it is accepted and wrong for those who live in a society where it is forbidden, then the same must be true of other kinds of act. But we do want to be able to criticize some existing social norms, at least in our own society. We want to be able to advocate changes as *progressive*—that is, as moves toward a more reasonable and better order. Clearly, if all is relative no progress is possible. Differences would make no humanly significant difference. No one could advocate any social change; he could only defy existing norms and perhaps by instigating a movement of defiance change the status quo. But such a revolu-

tionary movement would not promote anything *better*, only something *different*. Even today's radicals would despair in such a directionless moral universe!

Unsound as the subjectivist and relativist positions are, they are often implicit in popular arguments about the morality of abortion. For example, the Gallup Poll or similar surveys are often cited as an argument to show that the traditional religious prohibition is surpassed and no longer valid. To the extent that the surveys show the growing approval of abortion under conditions which traditional norms would not have sanctioned, they do prove that the traditional norms have lost their force. People no longer feel themselves bound by the moral standards their parents accepted without question.

But the sociological fact that a change of attitudes is occurring by no means settles the question as to which attitudes are in fact the sounder. If the ethical question were settled by the mere fact that attitudes are changing, then subjectivism or relativism would be correct. It would follow that the new attitudes would be no better than the old ones, but only different, and that no reasonable grounds could be given for preferring the new morality to the old.

But if subjectivism and relativism are untenable positions, why do they seem plausible to many people? What truth underlies such an obviously mistaken attitude? Surely if there were not something supporting this attitude it would not have the appeal it obviously has.

One reason for the appeal of subjectivism and relativism undoubtedly is the promise they hold out that one's own moral judgment will be automatically validated. A subjectivist can always bring himself to think that what he wishes to do is right. A relativist need only conform to opinion in his own society, and if that opinion should be divided he can console himself with the thought that his action agrees with the standards accepted by most people (as evidenced by the Gallup poll or the Kinsey reports) or, at least, with the standards that will be accepted by the subculture with which he feels the strongest identification.

Another reason for the appeal of these attitudes undoubtedly is the despair felt by those who had accepted some traditional moral outlook uncritically and who now discover that others hold quite different opinions. If morality is what we have always believed right, then if different persons or societies have different received beliefs, there must be different and irreconcilable moralities, all equally worthy of respect. Once the first shock of the discovery of ethical diversity has passed, such uncritical relativism yields to a more critical and reflective attitude toward ethical issues and moral values.

Another, and more important reason, for the appeal of subjectivism and relativism is a confusion between the objective and the subjective aspects of morality. We notice that men of sincere good will can disagree irreconcilably in regard to ethical questions and can feel themselves morally obliged to courses of action that lead them into tragic conflicts with one another. In such cases we cannot find it in our hearts to condemn either side as vicious; we wish to tolerate the sincere views of persons and cultures different from our own.

This desire for tolerance surely is worthy. But it does not presuppose subjectivism or relativism. Rather it requires a distinction between the viciousness or guilt of those who act and the wrongness or evil of what is done, between the virtue or good will of those who act and the rightness or goodness of what is done. It is surely possible for men of good will to do what is evil by mistake or through human weakness, and it is also possible for vicious men to do good despite their worst efforts.

Everyone must always follow his own conscience, for one's conscience is nothing else than his best judgment as to what he ought to do. No one is guilty who does his best to find what is right and then acts according to the best judgment he can make. But such a judgment, for all its sincerity, need not be correct. We do not think that they were right who tortured heretics in the sincere conviction that such torture might save them from eternal damnation. But it would be intolerant and self righteous of us to believe that every inquisitor was an insincere sadist who put heretics on the rack merely for selfish enjoyment. If men in years to come find a better way than nuclear deterrence to keep peace, we might hope that while they condemn the policy most Americans now approve they will understand the sincerity with which we have acted.

In our discussions in the remainder of this chapter, we shall be concerned solely with the objective aspect of the morality of abortion. If we find the practice ethically indefensible, this does not mean that we pass judgment upon those who engage in it or defend it. Tolerance of those who disagree with us, compassion for those who do what we judge evil (often acting in circumstances where we might do worse ourselves) are not incompatible with a firm judgment on the ethical character of the practice of abortion itself.

A final reason for the appeal of the attitude of subjectivism and relativism is found in a widespread confusion between moral judgment and moral choice. Morality, obviously, is not a matter of given facts. In the moral domain, man is not a mere patient of natural forces. Rather he determines himself; he writes his own autobiography; he creates his own history. Man can say "No" to the world that presents itself; with that "No" he can set out to make a world more nearly in accord with his own ideals.

Thus morality is the sphere of man's freedom, of his superiority to what is given in advance, ready made. How, then, can man submit to moral standards which do not reflect his own decisions? If he cannot, then must not man's own decision settle what will be right and wrong for him?

The argument is plausible but invalid. The moral decision is actually twofold. One is the choice what one *will* do; the other is the judgment what one *should* do. Due to this ambiguity it makes perfectly good sense to say: "She decided she ought not to have an abortion, but she decided to go ahead and have one nevertheless." The first "decided" refers to judgment, the second to choice.

In neither sense is *decision* given to us as a fact of nature. But decision as judgment has an objectivity that decision as choice lacks. If this were not so, there would be no morally wrong acts, for whatever we decided to do by that very fact would become right.

Yet the objectivity of moral decisions is not to be found in a factual state of affairs. When we judge that a certain kind of action is wrong, we are not making a statement about *what is*, but about *what ought to be*. A moral judgment has truth, but this truth is established not in experience but through reasons that lead us to the values which make our human life of freedom possible.

I suspect that far fewer people would espouse a subjectivist and relativist attitude toward torture or murder than toward abortion. The number that is confused on one matter or another undoubtedly varies depending upon the extent to which the intuition of common sense reveals that an act affects not only the agent himself but also another person who might be seriously hurt by it. Thus we do not tend to say that torture or murder are right for those who think them so, for we can imagine ourselves in the position of a victim who vigorously rejects any such "tolerant" judgment. If we are less certain concerning abortion, this may be because we do not easily put ourselves in the place of the fetus. Indeed, the question is raised whether the aborted are human beings at all. To this question we must next turn our attention.

#### Is the Aborted Embryo or Fetus a Human Being?

This question is perhaps the most important single question in the whole ethical controversy concerning abortion. Unfortunately, neither proponents nor opponents of abortion have treated the question with the care it deserves. For in fact there are two questions which should not be confused. One is a factual question that is settled by biology. The other is a philosophical or theological question, and one's answer to it depends on his whole world-view and sense of values.

The factual question is: In the reproductive process, at what point does the human individual originate? In other words, as human life is passed on in a continuous process, where do the individual lives of the parents end and where does the individual life of the offspring begin?

Although it presupposes an answer to the factual question, the metaphysical or theological question is quite distinct. This further question is: Should we treat all living human individuals as persons, or should we accept a concept of person that will exclude some who are in fact human, alive, and individuals, but who do not meet certain additional criteria we incorporate in the idea of "person." Generally the person is considered to be the subject of rights, and so once it is admitted that a person exists, there will be a very broad consensus that he has at least a *prima facie* right to continued life, since this right is more fundamental than any other.

Now, it should be admitted by opponents of abortion that the question of the fetus' right to life is not settled merely by the biological facts, although these facts certainly are relevant. It should be recognized, on the other hand, by proponents of abortion that any case for restricting the concept of *person* must be argued philosophically or theologically. In such an argument, facts are relevant but never decisive, and a mere declaration of a restrictive definition of *person* is not an argument but a begging of the question.

The factual question which pertains to biology is naturally the easier of the two questions to answer. We have considered at length in chapter one the manner in which new human individuals originate. Life proceeds from life, and human life from human life, in a continuous process. New individuals emerge from existing individuals.

Relative to parents, the individuality of the offspring must be admitted to begin at conception.

The sperm and the ovum, prior to fertilization, obviously can be considered as belonging to those from whom they derive. But once conception occurs, a cell exists which cannot be identified with either parent. The fertilized ovum is something *one* derived from two sources. As the facts of genetics reviewed in chapter one make clear, the unity of the fertilized ovum is continuous with that which develops from it, while the duality of the sperm and ovum are continuous with the duality of the two parents. Thus, the proper demarcation between parents and offspring is conception, and so the new individual begins with conception. From this point of view, then, it is certain that the embryo from conception until birth is a living, human individual.

As we also saw in chapter one, the fact of twins and the possibilities of parthenogenesis and mosaics do not argue against conception as the correct demarcation between the life of the parents and the new individual. The biological concept of individuality is not defined solely in terms of the uniqueness of a "genetic package," although such uniqueness helps to make clear the discontinuity between parent and offspring. Individuality is relative; it implies inner unity with division from others. The individuality of twins in relation to their parents clearly is established at conception, although their individuation in relation to one another may occur somewhat later, and in the case of double monsters can even remain problematic at birth. The individuality of the components of a mosaic in relation to one another is terminated sometime after conception but their individuality established at conception in reference to progenitors is not altered when the mosaic is formed. The individual that develops parthenogenetically is established as distinct from its single progenitor when the ovum is somehow activated to develop without fertilization.

The assurance of modern biology that new individuals begin at conception was already taken for granted by the medical ethics and jurisprudence of the early nineteenth century, as we saw in chapter five. The additional information we have gained about reproductive physiology and genetics has refined and confirmed what Thomas Percival and the Beck brothers took as common



knowledge. Nineteenth-century legislation, as we have seen, presupposed this modern biology.<sup>2</sup> Ancient theological convictions did not demand that conception be regarded as the beginning of a new individual, but when modern biology showed the necessity of this view, secular humanism actually preceded theology in drawing the conclusion that abortion from conception onward involved an attack on the human right to life. But the secular humanism of the nineteenth century, of course, was moved by a residue of the traditional religious outlook to the extent that it assumed that living human individuals should *ipso facto* be regarded as persons.

Only where and when the movement to approve abortion has taken hold do we find the answer to the biological question rejected or concealed in half-truths. Mainly such distortion is found in popular arguments. For example, the facts that the sperm is unique and alive before conception, that the fetus cannot live apart from its mother until late in pregnancy, and that many fertilized ova do not develop to birth are used in popular discussions to suggest that the individual's life does not begin at conception. We have seen in chapter one why such inferences are unsound. We also saw why it is misleading to say that the embryo at any stage is "merely a blob of protoplasm," or that it is "a parasite," or that it goes through a "fish stage" of development.

However, we have seen how the distinction between contraception and abortion, which was always clearly understood and taught by proponents of birth control until they also became proponents of abortion, has recently been purposely blurred to make room for methods which are possibly or probably abortifacient.<sup>3</sup> Even a few biologists have presented arguments in the context of defending abortion which they would never have proposed in a scientific context.

For example, Garrett Hardin, an ardent proponent of abortion, has argued that nothing of great value is destroyed when a fetus is destroyed. In this argument he has to assume that whether or not the fetus is a human being is a matter of arbitrary definition. He then compares the genetic information contained in the fertilized ovum to a set of blueprints for a structure. By analogy he argues that the destruction of the zygote is no more destruction of a human being than the destruction of blueprints for a fifty-thousand-dollar house would be destruction of the house. He admits only two deficiencies in the analogy. One, that the DNA of the first cell is replicated in every cell of the body. But this seems to him an insignificant fact, since hundreds of sets of DNA are destroyed every time we brush our teeth. The other difference Hardin admits is that the fertilized ovum is an unrepeatable set of blueprints, but he brushes this fact aside with the observations that the resultant individual could be a Hitler as well as a Beethoven, and that the unfertilized egg also is unique.<sup>4</sup>

Apart from other questionable aspects of this reasoning, I am surprised at its confusion about the most obvious failure of the analogy. The fertilized ovum is *alive*; the blueprints of a house are *not alive*. The fertilized ovum is

in active interchange with its environment in the developmental process; the blueprints have no such dynamism. The fertilized ovum does not contain a model of the articulated structure, as if there were in it two-dimensional prototypes of all the parts and organs of the body. Blueprints do contain such a model. For this reason the blueprints in no sense become part of the house; they remain outside it. The fertilized ovum, however, is in vital continuity with the developed individual. A human being grows, while a house is built.

One would expect a biologist to observe this difference. If he does observe it, then the analogy breaks down. On the other hand, if he does not observe it, there is no reason to draw conclusions about the fetus from observations about the DNA of the fertilized ovum. After all, what is aborted—even by the prevention of implantation—is not a fertilized ovum, but an already developing individual. If the stages of his development are not to be included in an individual's human life, then life really will have to be said to begin at forty! Until then, I suppose, Hardin's biology will file everyone away like so many sets of blueprints.

The conclusion Hardin is really interested in is that the fertilized ovum should not be regarded as a person with a right to life. But he gives no argument to this point, instead relying on a confusing analogy and a bare assertion that we can define "human being" however we like.

Another, and more important, example of this sort of confusion is found in the comments presented with the American Law Institute's proposed model abortion law. The comment argues that most abortions

... occur prior to the fourth month of pregnancy, before the fetus becomes firmly implanted in the womb, before it develops many of the characteristic and recognizable features of humanity, and well before it is capable of those movements which when felt by the mother are called "quickening." There seems to be an obvious difference between terminating the development of such an inchoate being, whose chance of maturing is still somewhat problematical, and, on the other hand, destroying a fully formed viable fetus of eight months, where the offense might well become ordinary murder if the child should happen to survive for a moment after it has been expelled from the body of its mother.<sup>5</sup>

As we have seen in chapter one, this set of assertions is at best misleading. The fetus is well implanted long before four months. It is recognizably human before eight weeks of development. It responds to stimulation long before the mother feels it; "quickening" is only the mother's awareness of the child's life within her. More than seventy percent of the embryos that cause a missed menstrual period (at two weeks or so of development!) will go to term if they are not artificially aborted. Thus the chances of survival are quite good.

In fact, of course, the A.L.I. proposal does not restrict abortion to the first four months of pregnancy, but proposes justified abortion under stated conditions regardless of the age of the fetus. Twenty-six weeks is used as the point of demarcation for increasing penalties on unjustified abortion and for imposing a penalty for self-abortion. At this age, many fetuses would be viable, if

given proper care. And the fetus of less than four months is not so obviously different from what it will be a few months later.

The British abortion law, which is similar to the A.L.I. proposal in having no cut-off date for justifiable abortion, has led to unexpected consequences. For example, a twenty-year-old girl had an abortion at Stobhill Hospital in Glasgow; the pregnancy was believed to have proceeded a bare twenty-six weeks, the point at which the A.L.I. proposal considers the fetus first viable. The baby was found by a workman still alive after it had been dumped in a bag to be thrown in the incinerator. At this point an unsuccessful effort was made to save the baby. An inquiry determined that death was due to lack of care after birth, exposure to cold, and prematurity.<sup>6</sup>

One suspects that the commentators on the A.L.I. proposal would have made their view clearer if they had frankly admitted the biological facts, according to which abortion certainly involves the destruction of a living human individual. Then they could have undertaken some philosophical or theological argument in favor of restricting the notion of *person*, with its implications for the right to life, so as to exclude human lives in their embryonic stages from the circle of protection accorded to persons.

*This brings us to the second question.*

If it is granted that in fact new human individuals begin at conception, still it may be asked whether the fetus should be regarded as a person. Is the zygote or the morula—incipient life even before implantation in the uterus—to be regarded as a person with a right to life? Is the embryo a person before it looks human? Is it a person only after it could survive if separated from the mother? Or does it become a person only sometime after birth?

Perhaps the clearest and most extreme position which denies personality to some individuals is that which treats the person as a function of society. This view takes various forms.

Ashley Montagu, for example, published a book for pregnant women. In it he asserted:

The basic fact is simple: life begins, not at birth, but at conception.

This means that a developing child is alive not only in the sense that he is composed of living tissues, but also in the sense that from the moment of his conception, *things happen to him*. Furthermore, when things happen to him, even though he may be only two weeks old, and he looks more like a creature from another world than a human being, and his birth date is eight and a half months in the future, *he reacts*. In spite of his newness and his appearance, he is a living, striving human being from the very beginning.

However when an opponent of abortion cited this book, Montagu responded that

the embryo, fetus and newborn of the human species, in point of fact, do not really become functionally human until humanized in the human socialization process. Humanity is an achievement, not an endowment.<sup>7</sup>

And Montagu went on to declare that he favored abortion whenever the child's "fulfillment as a healthy human being" would be in any way "menaced" or would in any way "menace" the mother's health or society at large.

Obviously, this criterion of personality opens the door to infanticide as well as to abortion. What is more, it implies that those who regard themselves as humanized and socialized would be justified in doing away with any group they did not consider "functionally human" if the existence of that group "menaced" society or if its own "fulfillment" were menaced.

Now, this criterion is dangerously elastic. Apart from the possible abuse of it to solve such difficulties as the race question—an abuse Montagu himself surely would not approve—we must note the relative character of the standard in cases Montagu does not discuss. Helen Keller, for example, was not socialized and her healthy fulfillment as a human being surely was menaced. By Miss Sullivan's standards the child was nevertheless a person to be reached; by Montagu's standards Helen Keller surely ought to have been exterminated.

Of course, Helen Keller was not completely lacking in humanization before Miss Sullivan undertook her education. As an infant, Helen had been bright and normal; even after her illness, her "anti-social" behavior was a form of human socialization. But if any degree of humanization whatever is to be counted as sufficient to constitute a person, then the fetus already is a person, for as Montagu himself shows in his book such factors as the pregnant mother's emotional states and her work schedule do influence the temperament and behavior patterns of the child.<sup>8</sup>

Even before birth a human being is never an individual isolated from the patterns of culture. Because the mind and the body are not distinct entities, but only aspects of a unified human being, socialization is a psychosomatic process. Because the embryo develops by interaction with the maternal organism, socialization has its beginnings in the most fundamental modes of biological communication.

Some might argue that although socialization is begun before birth, the process is not completed until subtler forms of communication, such as language, can have their effect. Undoubtedly it is true that "functional humanity" is not completely attained before birth. But in referring to it as an "achievement, not an endowment," Montagu suggests what is in fact false—namely, that at some point socialization is complete. In truth, functional humanity is always more or less unachieved. We go through life trying to become what we may be, yet even one's whole life together falls short of what it might have been. Moreover, since human life is a process rather than a product, the "functional humanity" of earlier stages is as inaccessible to later ones as the reverse.

To talk as Montagu does implies that human development is like the construction of an automobile. It becomes an automobile only at the end of the production line when someone can actually drive it. But a human being has a variety of abilities, some of which are lost as life passes. We need not

romanticize childhood to the extent of supposing that the best years of our lives are the earliest ones, but we should not romanticize the "functional humanity" which is "achieved" by "socialization" so much as to deprive infancy and even life before birth of all human quality.

Montagu fails to take into account that the "achievement" of "functional humanity" is not a matter of passive reception by inert material of the shaping forces of "socialization." The individual himself is an active participant in the process, and although the ratio of passivity to activity is greater the younger one is, it is hard to see how socialization could ever begin at all if the one being socialized did not somehow actively participate even at the outset.

In effect, Montagu, who is an anthropologist, makes the same error as Hardin, the biologist, who with his analogy of blueprints overlooked the peculiarity of life. The potentiality of *life* is not fulfilled by an extrinsic agent bringing together already existing components, but by self-actuation. And humanization does not occur by the imposition of social personality on subhuman raw material, but by a process of give and take which has already begun when the embryo's effect upon the mother causes her to miss her menstrual period and learn of her new status.

Both Montagu and Hardin look upon the unborn as non-persons, and so as mere objects. To justify the physical act of depriving the unborn of life it is necessary first to evade by one's conceptualization the fact of life. Thus it can seem that the killing of the unborn only prevents life from beginning.

A more blatant example of such conceptual juggling was in a question raised by Canon Pierre de Locht, a Belgian Catholic theologian:

Does not the fact that the parents *perceive* the fetus as a human person make any difference in its constitution as a human being, as a spiritual being? Is it not necessary that there be established a relation of person to person, a relation of generators with the fetus, for it to become a human person? In other words: a fetus not perceived as living, not perceived as a human being—can it become that?

A convenient idea for those who want an abortion—simply be careful not to "perceive" the fetus as a person!

Canon de Locht's question is obviously absurd, but it is instructive to consider how he could have raised it. I think the reason was that he was thinking of the fetus by analogy with objects which are constituted by human meaning-giving. Nothing is language unless we perceive it as intelligible communication; nothing is food unless we perceive it as edible; nothing is a house unless we perceive it as a place to live in. A certain form of phenomenological philosophy extends a similar account to the "constitution" of nature itself, by showing how man puts meaning into the world. Canon de Locht proposes to do the same thing with the coming to be of the person. In this way the unborn are reduced to mere objects whose meaning and value depend on what their parents think of them.

But clearly if the fetus is a person, it cannot be merely an object. A person is himself a subject—one who gives meaning to objects, but has some meaning apart from what others think. If this were not so, there would be nothing behind the faces in the lonely crowd!

This observation brings us to another line of argument for the non-personhood of the unborn. Joseph Fletcher, An Episcopalian moralist, states it when he suggests that the sound solution to questions about abortion

. . . would be to deny that the right to life claimed for a fetus is valid, because a fetus is not a moral or personal being since it lacks freedom, self-determination, rationality, the ability to choose either means or ends, and knowledge of its circumstances.<sup>10</sup>

For Fletcher, personality consists *exclusively* in these factors; the human body is not included in the person:

Physical nature—the body and its members, our organs and their functions—all of these *things* are a part of “what is over against us,” and if we live by the rules and conditions set in physiology or any other *it* we are not men, we are not *thou*.<sup>11</sup>

Fletcher, who quotes Martin Buber—although Buber’s attitude toward the body was quite different—goes on to compare the relation between “man” and his own “physical frame” to a partnership. But he admits this analogy fails, and suggests instead that the body is like an artist’s materials.

The dualism of Fletcher’s view is clearly extreme. But a less obvious dualism of the same sort infects much pro-abortion argument. Philosophers have labored long and hard to refute such dualism, and today very few would defend it. The trouble with dualism is that it makes our processes of thought and action inexplicable, for these processes involve the body not merely as a tool nor as material, but as the aspect of our self in virtue of which we can treat anything as a tool or as material. If our bodies are not really part of ourselves, of our personalities, we are literally *out of touch* with the real world.<sup>12</sup>

The implications of Fletcher’s dualism clearly extend beyond abortion. An infant just after birth, someone very gravely retarded, an insane person, or a person in a coma also seem to lack “freedom, self-determination, rationality, the ability to choose either means or ends, and knowledge of its circumstances.” Fletcher himself has drawn the implication that euthanasia should be permitted. He holds “that a patient who has completely lost the power to communicate has passed into a submoral state, outside the forum of conscience and beyond moral being.”<sup>13</sup> There is a rule against medical homicide, but Fletcher asserts it admits of exception, adding: “If one can be made at the beginning of life (abortion) why not also at the end of life (euthanasia)?”<sup>14</sup> Fletcher has not only approved medical homicide in these two forms, but also infanticide of children suffering from Down’s syndrome (mongolism). He states that such a child “is not a person.”<sup>15</sup>

Fletcher accepts the broadest possible justification for abortion. Speaking of proponents of the "new morality," with whom he agrees, Fletcher asserts:

It is even likely they would favor abortion for the sake of the victim's self-respect or reputation or happiness or simply on the ground that *no unwanted and unintended* baby should ever be born.<sup>16</sup>

The italics are Fletcher's own, and though he does not apply the force of this criterion to babies already born, there is no obvious reason why he should not. Many unintended babies do get born and often babies become unwanted only after their parents have a few sleepless nights with them. Why shouldn't such parents smother their squalling infants? After all, they lack "freedom, self-determination" and so forth; thus on Fletcher's principles they are non-persons, mere "its," part of the physical nature which is "over against us."

Of course, Fletcher might argue that the infant seems to have some sort of consciousness, and that it will in due course come to exercise the capacities he mentions. For it must be the capacities rather than the acts of "freedom, self-determination" and so forth that constitute the person, since otherwise we would become non-persons every time we go to sleep. But if he argues that the infant is a person in virtue of its capacities which will in due course develop, there is no reason to exclude the fetus. It too has some sort of consciousness, as is evidenced by its reaction to sensory stimuli, which we noted in chapter one.

He could say that such elemental reactions do not evidence personal capacities, since simple responses undoubtedly also occur in animals. But it must be noticed that "freedom, self-determination, rationality, the ability to choose either means or ends, and knowledge of its circumstances" are not discrete entities, like solid blocks, that are either given or not. These capacities appear in different persons in varying forms and degrees. As far back as our memories extend, we find something of these abilities in ourselves, though doubtless in a simpler form and in a lesser degree than we now enjoy. Should we assume that this progression began suddenly at some point? Or would it not make better sense to think that it continues backward beyond the memory barrier and even to the very beginning of our existence?

If we take the second alternative, we need not assume that the appearance in the embryo of the neural fold, around the time the woman is missing her first menstrual period, is a primordial manifestation of reflection. No, we need only recognize that our mental capacities, like our bodily organs, came about by a continuous process of development from a dynamic starting point. As we look backward toward our origin, there is less and less differentiation the nearer we approach the starting point. But as our vital source already has the implicit dynamism to develop our bodies, which are human bodies, not any other kind, must the same source not also be admitted (particularly by those who do not regard the soul as a spiritual entity) to have what is necessary to develop the highest human capacities? This development, of course, is not

merely growth but differentiation; the development is not the application of blueprints to material, but a vital process involving constant interplay between the activity of the developing organism and the many influences of its total environment.

In short, Fletcher, like Hardin and Montagu, seems to ignore the peculiar character of the living individual. But Fletcher differs from the others in opting strongly for a dualism which separates moral personality from the body. Perhaps he is influenced in this by the soul-body dualism that was once influential in Christian theology; perhaps he is influenced by the mind-body dualism of seventeenth-century and eighteenth-century philosophy; perhaps the psyche-soma dualism of nineteenth-century psychology is the main influence. In any case, all of these forms of dualism are now generally discredited in the various fields where they once held sway, because any theory that splits man in two renders inexplicable the obvious facts about the unity of man in thought and in action.

It should be noticed that not every version of the Christian doctrine of the soul involved soul-body dualism. Thomas Aquinas, for example, did not regard the soul as an entity separate from but conjoined to the body; rather he viewed the soul of a living human being as an aspect of his unitary being—but an aspect able to continue to exist upon the death of the man.<sup>17</sup> Whether this complex theory is tenable or not we need not consider for our present purpose.

However, we must notice that Rev. J. Donceel, S.J. has recently urged that early abortion should not be considered the killing of a human being, because the old argument that the human soul is not created until forty days after conception (in the case of males) or eighty days after conception (in the case of females) was substantially sound. Donceel takes this position, though setting aside the distinction between male and female, on the basis of his interpretation of Thomas Aquinas' theory of the soul and of human development. According to Donceel, the theory that the human soul is present immediately at conception grew out of Descartes' dualism. Descartes, unlike Aquinas, considered the soul not as an aspect of the living human body, but as a separate entity, which worked upon the body rather as an artist works upon his material or uses his tools. For Aquinas, however, the soul required an organized body, since it is a constituent aspect of such a body, and cannot exist prior to the presence of that which it intrinsically constitutes.<sup>18</sup>

There is a good deal wrong with Donceel's thesis. Historically, we traced the rise and decline of the mediate animation theory in chapter four.<sup>19</sup> Fienus and Zacchia, who initiated the movement away from the theory Donceel still espouses, were Aristotelians; they wrote too soon to have been influenced by Descartes. Increasing biological knowledge may have affected their outlook, but they also wrote long before the false preformationist theories of the eighteenth century.



Even more serious, Donceel fails to take account of the impact on Aquinas' views of a combination of ignorance of biological fact and consequent error of biological theory. Donceel says, for example: "St. Thomas Aquinas did not hold that the ovum was a human being from the first moment of fertilization."

One cannot disagree, for Aquinas neither knew of the ovum, nor of the cell, nor of fertilization! Following Aristotle, he held that the semen—which appeared to him an obviously non-living substance—activated a series of transformations. Generation, he believed, was not a continuous process, but a series of discrete stages. The formation of the body is due to a "vital spirit which the semen contains as a kind of froth."<sup>20</sup>

Now, Donceel does not accept this biology, but he does not notice the difference it makes when one holds that life is transmitted by living cells, that development is a continuous process, that there is no vital spirit in the semen which could serve as agent of development, but that semen does contain spermatozoa which can fertilize the ovum, and that the fertilized ovum is biologically a living organism of the human species. Taking account of these facts, others have argued plausibly on Aquinas' philosophical principles that if he had known what we know about human physiology, including what we know about the specific and individual genetic definiteness of the zygote, he would not have held the Aristotelian theory of delayed animation.<sup>21</sup>

Moreover, Donceel does not manage to evade the implications of the fact of the continuity of human development. Arguing that the soul is not an agent of development but a form of the body, he compares the soul's relationship with the body to the relationship between sphericity and a ball. The analogy, again, like Hardin's blueprints, is to the non-living. But Donceel's point is that the body must be actually human to have a human soul, and he repeatedly denies that the fertilized ovum is a human body.

Of course, the embryo is not at first a developed human body, but it is an embryonic one. Donceel explores the possibility of saying that the human soul cannot be present until the brain is developed, perhaps until it can function, or even until the child can talk. But he recoils from going so far, and settles for saying that the human soul is not present during the first few weeks of pregnancy, without explaining why the living individual he thinks cannot be a human body at conception can be one after a few weeks. One suspects the real criterion is that if one looks at specimens in bottles, an eight-week embryo definitely *looks* human. But that is merely a matter of appearance, and can hardly be offered as a criterion for settling a metaphysical question.

The Church of England committee which produced the booklet, *Abortion: an Ethical Discussion*, noted and avoided a number of the difficulties these other authors did not succeed in overcoming. The Anglicans begin by setting aside the theory Donceel espouses as unverifiable and by insisting on the continuity of human development. But they wish to avoid declaring "the foetus

to be in all circumstances inviolable," because they feel such a position would imply an absolute moral and legal exclusion of abortion, which they quite frankly want to permit in certain cases. One's judgment whether the fetus is a human being "will inevitably be influenced by the evaluative conclusions that we want to come to."<sup>22</sup>

Now, I would not wish to deny that those who intend to kill often find it helpful to define their intended victims as non-human. Such conceptual juggling has been pointed out above, and one could verify the general practice of the device by a study of the history of the treatment of Negro slaves or American Indians. We would find examples of argument that such victims were not human, did not have souls, were not full persons.

But I do not think that such conceptual juggling is unavoidable. In the first place, the Anglican committee was simply mistaken in saying that acceptance of the humanity of the fetus absolutely precludes further consideration of the possible morality—much less the possible legality—of abortion under certain exceptional conditions. We shall see that while those who accept the full humanity of the fetus are not open to abortion on demand, they often do propose a rationale for approving some abortions.

Moreover, the arguments I have already proposed seem to me to show that at least the factual question has long since been settled by biology: a new human individual begins at conception. What the Anglican committee does in a somewhat confused way, is to answer the metaphysical question whether this human individual is a person. They answer in the negative. The defense of this negation is that for many purposes we define "human being" by the traits we consider most valuable, that on this basis the paradigm case is the typical adult, and that the fetus is only potentially an adult. This procedure is question-begging, of course, but the committee does not deny that.

Rather, they propose that to talk in terms of potentiality to adulthood is "less pliable" than to talk in terms of "soul," "life," or "person."

Thus, we may say that the foetus will, if it develops in the usual way, turn into a typical adult human being; that it is not *now* a typical adult human being; that, nevertheless, it is, in most cases, an object of hope, on the part of its parents, because of its potential future as a child of theirs (as in evidenced by the distress usually caused by miscarriages). We may then go on to argue that, because of its potential future, there is a *presumption* that we ought to do what we can to preserve the foetus. This argument is based on the premise that it is a good thing, *ceteris paribus*, for there to be another human being.<sup>23</sup>

There are many difficulties with this argument. For one thing, it would justify infanticide as well as abortion, for birth is not a morally significant dividing line, as the committee itself notes a few pages previously.<sup>24</sup> Again, if the whole weight of the presumption against abortion rests on the presumption that it is a good thing, *ceteris paribus*, for there to be another human being and that the fetus has a potential future as a human being, then there is no moral difference between contraception and abortion. The committee itself also con-

firms this when it states, without argument, that conception is no morally significant dividing line.<sup>25</sup>

Now, an ethical position that cannot clearly distinguish contraception from infanticide seems to be in difficulty. But there is the further difficulty that no reason is given to show why the potential future of the fetus as a typical adult human being—if that is all that is at stake in abortion—should establish any presumption that we ought to do what we can to preserve the mere potentiality represented by the fetus. The committee says we may argue from potential future to presumption, but they give no argument beyond the assertion, and the assertion is hardly self-evident.

Perhaps the reason for this gap in the argument is that the Anglican committee was proceeding from a situation in which all abortions had been excluded toward a justification of some abortions. They therefore made what is a common mistake in moral arguments. They abandoned the principles underlying the *status quo ante* in order to admit desired change, and neglected to note that there remained no barrier to undesired, radical change.

In effect, the Anglican committee was still of half a mind to think of the fetus as a person, but as a less equal person than an adult. They do not say this, but they do say the fetus has a “right to live and develop,” but that there may be cases in which “this right may be offset by other conflicting rights.”<sup>26</sup> Since only persons have rights, the committee here implies that the fetus is a person; but since they wish to subordinate the fetus’ right to life to some less basic rights, including a rather broadly conceived right of maternal health, the committee could not employ the concept of person. For “person” suggests equality of basic rights—the ones Blackstone called “absolute.” To maintain the desired inequality, the fetus therefore has to be classified as a potential adult.

But this solution does not really seem to differ much from another possible way out that the committee considered and rejected: namely, to imagine

...that between the moment of conception and the full maturing of the personality—whenever that may be assumed to have been attained—there is a long period of development, and that the degree of protection which is this person’s due develops *pari passu* with it.<sup>27</sup>

The committee rejects this as too complicated to apply in morals and especially in law. But it is hard to see that the concept of potential adulthood is less difficult to apply, and certainly the concept of potentiality has enough ambiguities of its own.

If the committee actually did think of the rights of the fetus as proportioned to its stage of development, we are back with Montagu’s concept of “functional humanity” which is not an endowment but an achievement. We are also back with the false concept of the development of the living by analogy to production. What is worse, a mytho-poetic conception of developing person-

ality and rights is implied, so that one could almost solve conflicting claims of rights by placing opponents on an ordinary balance scale.

On the other hand, if the Anglican committee were altogether serious about the rejection of this proposal, they ought to have noticed that the potential future of the fetus will ground no rights for it at all unless it also has some present, actual character that grounds those rights. The human embryo at first does nothing but grow and develop, but it performs these vital functions in a specific way—not as a vegetable, not even as any other species of mammal would do, although the similarities are close. The potentiality of the human embryo is not simply for what it will become, but also for what it is. Human life is complete in its whole biography, and the whole meaning of what is earlier cannot be reduced to what comes later. The typical human adult is different from the baby, but not necessarily better, and the fullness of human life cannot be found in either the one condition or the other, but only in all the potentialities and fulfillments that constitute the process from the womb to the tomb.

The Anglican committee has done a real service, in any case, in frankly admitting the arbitrariness which underlies so much conceptual juggling in discussions of the question whether the aborted are human beings. If the discussion need not be as arbitrary as they suggest, it nevertheless is the case, as Herbert Richardson, a Protestant theologian and professor at Harvard Divinity School, points out, that we revere life more in ourselves and in those with whom we are closely identified than we do in

. . . many of the weak: the mentally retarded, the physically disabled, the genetically defective, the seriously ill, primitive and aboriginal peoples, and even our enemies. These all seem to lack some of the characteristics we feel are essential to ourselves . . . And what of the human fetus? Should we not care for it as weaker human life, accepting the fact that such choosing in its behalf always must involve an imbalance of advantage in its favor?<sup>28</sup>

For Richardson it is ironic that “we seem to want to push the fetus and the terminally ill outside the circle of humanity” just when we are making progress in bringing some others into it.

Throughout this section I have referred to the expectant woman as a mother and to the fetus as a child—at least I have not been careful to avoid doing so. I could have been more careful in this matter, and perhaps thereby gained something in the appearance of neutrality. But to have done so would not only be less honest, it would even be unnatural. For this habit of thought and speech is so ingrained that even proponents of abortion fall into it, and we have met it in some of the relaxed abortion laws. However, those really strongly for abortion can overcome the habit.

Lawrence Lader, in recounting the story of Sherri Finkbine, the Arizona mother who went to Sweden to have her thalidomide baby aborted, reported:

When she came out of anesthesia, Bob was standing by her bed. "Did you hear what the doctor said?" he asked. "The baby was deformed." He repeated it over and over again to make sure that she understood.

"It was not a baby," the doctor told her. "You must think of it as an abnormal growth within you."<sup>29</sup>

Both men favored the abortion, certainly, but Mr. Finkbine said "the baby" while the doctor, having overcome that habit, said "not a baby."

#### Utilitarianism—the New Morality

If we set aside the personhood of the unborn, arguments against abortion are arguments against contraception. Since I have treated this point at length elsewhere,<sup>30</sup> I will not deal with it here.

However, if we accept the position that the aborted *are* persons, the ethical issues are far from settled. What is excluded is any extreme position that would in effect equate abortion with contraception.

Thus the view that abortion is justified whenever the woman wants it, because she has a right to control her own reproductive capacity, is ruled out as soon as one grants that the fetus also is a person with rights. For if this is true, the fetus' right to life obviously is more important than the woman's right to dispose of her own reproductive capacity. Clearly, an obligation on a pregnant woman to forego abortion no more infringes on her rights than an obligation to forego infanticide infringes on parental rights.

We have responsibilities to those who are dependent on us, and we can hardly claim a right to kill merely to free ourselves of the burden of putting up with and caring for our dependents. If they are *ours*, they are not ours to dispose of as we will; that is the difference between our property and our relatives. The former is an extension of ourselves, but the latter, being other persons, have some importance in themselves.

Arguments that no unwanted child should be permitted to be born and that we must value quality of life more than mere quantity of life also have been introduced into the abortion controversy after having been used to defend the morality of contraception. However, a utilitarian theory of morality can use these arguments even on the supposition that the unborn are persons. And a utilitarian theory would be even more likely to argue the justifiability of abortion in particularly difficult cases—for example, when the mother's health is seriously endangered, when the child will be seriously defective, when the circumstances of the child's conception render its prospects very dim, or when the birth of the child would seriously lessen the chances of several brothers and sisters for a good life.

How would a utilitarian ethics defend abortion in such cases?

Utilitarianism holds that the moral good or evil of human acts is determined by the results of the acts. If an act has good consequences then that act will be good; if it has bad consequences, it will be bad. Of course, most acts have consequences that are partly good and partly bad. Therefore, utilitarian-

ism holds that the morally good act will be the one that on the whole gives the best results. Whenever we act there are alternatives, including not acting or delaying action. If we can add up the good results expected from each alternative and subtract in each case the expected bad results from the good, then according to utilitarian ethics we should choose the act that carries the prospect of the *greatest net good*. Only that act will be a morally good and right one to choose. Other possibilities will be more or less immoral depending upon how far their net value falls short of the single morally good act.<sup>31</sup>

Of course, this theory of morality immediately raises two questions. One question is whether the person acting must consider the good of others, or only his own good, or both. The other question is what will count as good consequences.

The answer of classical utilitarianism to the first of these questions is that one should consider the good of all indiscriminately when counting up good and bad results. We should seek "the greatest good of the greatest number"—so the maxim goes. Thus the agent himself, his friends and family, his enemies and those he has never met would all deserve equal consideration. This position is somewhat unclear, since it does not settle what to do if greater total good can be done to fewer persons by one act and a somewhat lesser total good to a much larger number of persons by the alternative. I think that this and other like ambiguities must be settled on the side of greatest net value, if the simple theory is to be maintained.

The other question—what will count as good consequences?—also has a classic answer. The good is pleasure and the absence of pain. Utilitarians have been criticized for the narrowness of this conception of good, but what they mean by "pleasure" includes every sort of enjoyment, felt satisfaction, and desirable experience. On this theory, the only thing good for its own sake is that conscious experience be as one would wish: rich, intense, and without pain, anguish, or boredom.

An issue often debated among those who espouse utilitarianism is whether each individual act must be judged immediately by the standard of good consequences or whether particular acts should be judged by moral norms which, in turn, would be submitted to the utilitarian test. The first position is called "act-utilitarianism" and the second "rule-utilitarianism." Rule-utilitarianism may seem more plausible, because it leaves room for the ordinary belief that there are some moral norms that should be respected.

However, the two positions actually amount to the same thing. For act-utilitarianism admits that the judgment that is right in any given case should be followed by anyone who faces a similar set of alternatives having a like balance of good and bad consequences. Thus the judgment of the individual act really is universal, and amounts to a rule. And rule-utilitarians, for their part, do not hold that the rules should be maintained even if on the whole and in the long run a change would be for the better. Thus the rules are subject

to revisions which admit all reasonable exceptions, and reasonableness is judged by the criterion of utility.

Rule-utilitarians often argue that their position takes account of situations in which it is harmless to the community and advantageous for each individual to act in a certain way but disastrous for all if everyone acts in that way—e.g., the contamination of a public waterway by private sewage systems. However, act-utilitarianism can justify making and enforcing rules to restrain everyone from contributing to a situation when cumulative action would result in common disadvantage. Among the bad consequences of an individual act are the implications it has for the action of others and together with the action of others. Thus if utilitarianism were a usable method of moral judgment, act and rule utilitarianism would yield the same results.

Utilitarianism is a secular ethic in the sense that it has developed as a “new morality” in conscious reaction to traditional religious ethics. The origins of the theory are in modern humanism, which especially in the nineteenth century sought to reform society and to change established customs, many of which rationalized grievous inequalities on the ground that the advantages of the upper classes were theirs by rights founded in “traditional” morality. Since religious morality had been perverted to defend social injustices, humanistic reformers sought a non-religious ethics to serve as the ideology of needed reform. The utilitarian theory was one candidate for this function; Marxism was another. But utilitarianism was compatible with the political outlook of Britain and America, while Marxism was not.

Utilitarianism and Marxism are both this-worldly. Both locate the good in people themselves. Both consider any act good if it has sufficiently good consequences. But Marxism locates the good in an ideal society—a kind of Kingdom of God without God—while utilitarianism locates the good in the experience of individuals—a kind of heavenly bliss without heaven.

Not surprisingly, therefore, utilitarian and Marxist ethics agree in justifying the killing of some people when such killing has sufficiently good consequences. The Marxist will justify killing if it promotes the revolution and the coming into being of the communist society. The utilitarian does not expect any such ideal society and he does not subordinate individual happiness to the community. But the utilitarian can justify killing some to save more, killing those whose lives are more miserable than satisfying, and the like.

Thus we can understand most common arguments in favor of abortion, for most of these arguments simply assume without proof (or even question) a utilitarian type of ethics. Surely, the argument will begin, it is right to induce abortion if it is necessary to save the mother’s life, since otherwise both she and the baby would die together, and it is better to save one than to lose both lives. Then, of course, even if it is a case of *either/or*, it usually will be better to kill the baby, since the mother’s life will normally mean more to herself and others than the unborn’s life means to it and to others. Next, the lack of advanced awareness and susceptibility to mental anguish in the unborn (or

even in the young child) will justify killing it if its continued existence will spoil someone else's life (the mother's health; the well being of existing children; the protection of society from the population explosion). Then too, if the child's own life will likely be more a misery than a joy, it may be killed (defects of a serious sort; perhaps the burden of being illegitimate; perhaps even the sad condition of being unwanted).

Everyone is familiar by now with the utilitarian sort of argument. It is usually, and most effectively, presented by detailing some actual, horrible case which appeals strongly to humane sensibility. We identify with the mother and feel acutely the weight of net value for and in her on the side of abortion. We neglect the embryo, even if we admit it to be human, because we have no memory of being in its condition, because it looks odd (perhaps, even, repulsive), because we do not know it, because it has no role in our society.

Those who argue for abortion on utilitarian grounds have adopted an effective rhetoric that does little justice to their opponents. The two chief elements in this rhetoric are an appeal to contemporary prejudice against the authority of traditional religion and an appeal to humane sympathy for the plight of persons in the face of objective, "impersonal" moral standards. Proponents of abortion may be fully sincere in this rhetoric. The prevailing rejection of abortion as immoral undoubtedly arose from the religious tradition, and many opponents argue on the basis of religious faith rather than develop a rational alternative to utilitarianism. Also the depersonalization of modern life in technological and bureaucratic society often pits the person against cold, "objective" requirements, and opponents of utilitarianism have not shown sufficiently that utilitarianism itself reflects modern depersonalization. Most important of all, opponents of utilitarianism have not effectively shown why mere good consequences cannot be an adequate criterion of moral goodness.

The first point that must be understood if the utilitarian theory is to be properly appreciated is that for utilitarians there is nothing inherently wrong or undesirable in killing human beings. As William Kopit and Harriet Pilpel wrote in a working paper for the New York Civil Liberties Union Board of Directors:

It is thought that most people do not consider a fetus of twenty-six or less weeks as a living child. Moreover, acceptance of a utilitarian philosophy requires that we recognize that no person has an absolute right to life. In certain situations, the taking of life is necessary to prevent the occurrence of a greater evil. The enormous social costs that the present abortion law create [*sic*] is clearly an evil that far outweighs any right to life that a fetus may be thought to possess.<sup>32</sup>

Kopit and Pilpel cite the A.L.I. commentary as evidence for the first statement. But they give no account of the "weighing" procedure that is supposed to support the second. In their calculation human life apparently weighs little as against "social cost."



Yet most people still tend to think that in general human life is precious and is to be respected and safeguarded regardless of the condition in which it is found. As Glanville Williams, himself a utilitarian, points out:

Even the modern infidel tends to give his full support to the belief that it is our duty to regard all human life as sacred, however disabled or worthless or even repellent the individual may be. This feeling, among those who do not subscribe to any religious faith, may sometimes be in fact a legacy of their religious heritage.<sup>33</sup>

Williams, being a consistent utilitarian, explicitly regards not only abortion but also infanticide and euthanasia as morally right in appropriate cases. He does not inquire whether all individuals who are either disabled or worthless or repellent ought to be dispatched, but he offers no argument against a democratically approved, carefully selective and well managed social program for weeding such undesirable elements out of the population. Williams does not see that there might be non-theological, humanitarian grounds for holding human life as such to be "sacred"—that is, worthy of respect and protection regardless of circumstances.

Williams also holds that a sense of the "sanctity" of life, present even in unbelievers, may be a legacy of religious tradition. He is insensitive to the humane character of this attitude. Paradoxically, Joseph Fletcher, who is an Episcopalian cleric and Professor of Ethics at the Episcopal Theological School, Cambridge, Massachusetts, shares Williams' view and claims that it is essentially Christian.

According to Fletcher, no act is intrinsically wrong; moral quality arises from the consequences. Fletcher explicitly declares that his theory takes over from utilitarianism the strategic principle of "the greatest good for the greatest number." However, for Fletcher, not pleasure but love—that is, the pursuit of the good of others on the widest possible scale—is the goal.<sup>34</sup> Yet Fletcher never explains what is to count as the "good of others"; he offers no general theory of values, but instead insists that an intuitive appraisal be made in each situation. This procedure leaves the problem of values to "common sense"—that is, to unexamined predilection. Fletcher illustrates the procedure with many "cases," his pronouncements on which would often seem unloving to anyone not a utilitarian.

Fletcher's system seems to me to differ from classical utilitarianism in only three ways. First, his emphasis on love and service to others seems to imply that a morally upright person should leave his own interest altogether out of account, except to the extent that the good of others requires self-concern.<sup>35</sup> This would differ from classical utilitarianism which counts the self equally and directly along with all others. Second, by setting aside classical utilitarianism's restriction of the good to pleasure, Fletcher is able to allow a more natural assessment of human values, without the need to reduce life-saving, friendship, and other goods to their effects upon states of conscious-

ness. Third, Fletcher claims that Christianity, by faith in God's love toward man, provides a new motive for love, but otherwise love functions in setting moral standards exactly the same for believers as for unbelievers.<sup>36</sup> This is why Fletcher can accept a completely secular view of abortion, yet claim his position to be the only truly Christian one.

Thus Fletcher approves abortion in the Finkbine thalidomide baby case:

God be thanked, since the embryo was hideously deformed. But nobody could know for sure. It was a brave and responsible and right decision, even if the embryo had been all right.<sup>37</sup>

Again, he approves the abortion of three thousand babies in a concentration camp where pregnant women were put to death:

Even accepting the view that the embryos were "human lives" (which many of us do not), by "killing" three thousand the doctor saved three thousand and prevented the murder of *six thousand!*<sup>38</sup> [calculation and emphasis his]

Fletcher is even willing to grant that sometimes abortion should be *preferred* to contraception: "*In most situations* birth control by prevention, for example, is better than abortion."<sup>39</sup>

In discussing a case of abortion following rape, Fletcher makes his most extreme statement on the subject:

They [those who share Fletcher's view] would in all likelihood favor abortion for the sake of the patient's physical and mental health, not only if it were needed to save her life. It is even likely they would favor abortion for the sake of the victim's self respect or reputation or happiness or simply on the ground that *no unwanted and unintended* baby should ever be born.<sup>40</sup>

Paul Ramsey, a Methodist, who is a Professor of Religion at Princeton, has observed that Fletcher here embraces one absolute standard: "No unwanted and unintended baby should ever be born," although this absolute is incompatible with Fletcher's basic position that nothing is intrinsically evil.<sup>41</sup>

Utilitarianism does not justify spasmodic, senseless violence. No, violence must be expedient and calculated to yield the greatest net good. Thus, the rule excluding the birth of unwanted children is not to be taken as an application of a general outlook favoring the killing of anyone who happens to get in the way of what one wants. Rather the argument is that unwanted babies, their parents, and society at large are on the whole better off if the unwanted babies are aborted.

Of course, the classification of babies as "unwanted" may not turn out to be as simple as it seems. Many babies are unwanted at the beginning of pregnancy but lovingly expected before birth. Indeed, women seeking abortion have been reported to be anxious to have it over with before they feel life, because then they could not go through with it. Where infanticide is practiced, something similar often occurs. Mothers must hurry to get rid of unwanted babies before feeding and caring for them, since they could not part with babies they had once nursed.

The change, unfortunately, is not altogether in the direction from unwanted to wanted. Many parents want their babies until they face real unforeseen difficulties and disadvantages. Then they ardently wish the babies had never been. Proponents of abortion often cite statistics on parental abuse—the “battered child syndrome”—to support the view that unwanted children should not be born. The assumption is that if permissive abortion eliminated unwanted babies before birth, all children would receive a full measure of tender, loving care. This assumption is not supported by any evidence, and it is at least as plausible to think that recent increases in child abuse are a *consequence* of more permissive attitudes toward abortion. Surely parents filled with frustration and hostility may reason that if it is not wrong to kill children that are unwanted before birth, it cannot be wrong to batter children that become unwanted afterwards—for example, when their constant crying becomes unbearable. And I do not see how a utilitarianism which justifies abortion can fault such logic.

Proponents of abortion often argue that in a period of population excess the abortion of unwanted children is not damaging to society. Professor Ralph Potter of Harvard Divinity School has argued to the contrary that the only adequate stimulus for the sensitivity and sacrifice needed to surmount the multiple social crises facing us is a respect for life of a sort that excludes abortion:

A utilitarian argument may be advanced to the effect that the total response to the population crisis will be most effective if respect for life is affirmed in the matter of abortion and is then used as a point of leverage and a goad moving men toward the realization of its imperatives in all human activities and relationships. It is only when institutions of society are considered to be rigidly fixed and predetermined that abortion can be portrayed as “the only way out.” “Respect for life,” the same value that generates hostility to abortion, should be made to generate openness to change and social inventiveness.<sup>42</sup>

In other words, in the argument about population, the utilitarian proponents of abortion both oversimplify the problem and ignore important but subtle consequences of the alternative courses of action.

We should notice that oversimplification and ignoring of data is not incidental to utilitarianism but is a necessary aspect of the method. There simply is no way to determine the “greatest net good” if we take into account *all* the probable good and bad consequences of all the alternatives concretely possible. For the possible alternatives open to us at any given moment are unlimited until we assume a certain definite good. And the humanly significant consequences of any act can be endlessly pursued into the ever more complex and remote and uncertain future. Moreover, diverse goods—even diverse forms of classical utilitarianism’s pleasure—are incommensurable with one another. There is no least common denominator, and so there can be no scale for weighing goods against one another.

Many a couple has decided to have another car rather than another child, but such a choice has never been made merely by rational calculation. The two are not commensurable. A decision was reached only when the good of having another car was accepted as the standard by which to judge the merits of having another baby. It is precisely because goods are incommensurable that we are able to determine our course of action freely; if utilitarian calculation were possible, the conclusions of such calculations would impose themselves on us just as unavoidably as do the conclusions of arithmetic problems.

This may explain why Fletcher, who claims to support an ethics of judgment in each concrete situation, argues for his position by using "cases" which are not concrete at all, but carefully abstracted and simplified models. Each "case" is presented in such a way that the objective considered desirable is brought into sharp focus, the alternatives are limited to two, and the significance of remote consequences is excluded.

Actual moral decisions are never so simple. But there are judgments that can be made in this way. In technology, engineering, industry, crafts, and arts judgments about how to proceed are necessary. In making such judgments, it is taken for granted that the desired result is good. The only relevant alternatives are the various ways of producing it. These alternatives are judged by their efficiency. The manner of proceeding that is decided on will be considered a good one if it succeeds—that is, if it gets the results one wants.

Moral judgment is not like this because it is not concerned with some particular, limited, definite goal that is produced by an action that has a meaning only from that goal. No. Moral judgment is concerned with the good of the person acting himself and with the good of other persons. This good is not achieved by any particular action, but rather *in* as well as *through* the whole of human life. Man is not a product; what he is to be, is not fixed, but constantly expanding.

The peculiarity of persons, in comparison with things, is that persons are not limited by what they are. For a person is a capacity to reflect, and reflection allows the self to stand back from itself and so to go beyond itself. Utilitarianism, far from being an antidote to modern depersonalization, is a consequence of it. If human life itself has to be judged good or bad by its utility, then man is no better than a machine. And this is precisely the outcome of utilitarianism, for it seeks to judge the moral value of human action by its consequences. But in truth human action is considered from a moral point of view precisely to the extent that it is seen not as leading to particular ends but as going to make up the whole which is a person's life itself.

The reduction of persons to the status of objects is most obvious in a utilitarian approach to the question of birth defects. For a utilitarian, there must be a kind of checklist for a human being just as there is for an automobile that is inspected at the end of a production line. The quality of the person will be determined by the extent to which he meets the pre-set list of requirements. If he falls short too seriously, it is only reasonable to consign him to the scrap

heap. This may explain why Fletcher can so confidently praise God for the abortion of a baby deformed by thalidomide and can assert so blandly that babies suffering from mongolism are non-persons. He assumes that to be a proper person one should meet some perfectly clear standards of quality control on the human production line.

What the example of Helen Keller and innumerable other defective children, including many thalidomide babies and mongolian idiots, shows is that the value of a human life cannot be measured by any such pat set of standards laid down a priori. In creating one's own life, a person can establish new standards of value, can go beyond his own limitations and even a little beyond the previous limitations of mankind as a whole. For this reason we all thrill to examples of human greatness, for those who have been great inspire us with hope that we may yet not only do what they did, but also do what they did not—that as they became what man before them had not been, so we too may become what man before us has not been. Our heroes inspire us not to relive their lives but to live our lives with a touch of their heroism.

Utilitarianism logically precludes the heroic. Only the greatest net good makes an act good; all alternative acts are evil. There is no going above and beyond the demands of duty. As on the assembly line, so in utilitarianism, everything is either up to standard or substandard. The abnormal is always less good; perfect conformity to the standard design is ideal.

The demand for quality rather than quantity is a utilitarian argument. One has to have standards of quality to make the demand intelligible. Those who popularized the slogan "the right to be well born" in connection with the eugenics movement had the same mentality. Doubtless they suffered from a certain snobbery as they looked down on the large families of their social inferiors. But there was more than snobbery involved, just as there is more than snobbery today when foundations, based on fortunes gathered by "private enterprise," apply their resources to population control. The eugenicists knew as a matter of scientific fact that it is possible to breed a better race horse or a better type of chicken. Therefore, why not breed better people? The answer, which also answers the utilitarian argument for abortion to promote quality, is that a better race horse is faster and a better chicken lays more eggs—because that is all that we are interested in—but a better person contributes something new to our understanding of what it is to be human and broadens a little our capacity for interest and appreciation.

Even the kinds of cases that seem the most suitable illustrations of the utilitarian view lose some of their force if they are examined in light of a more liberal and personalistic conception of man.

A woman who has been raped can simply reject any possible child by viewing it as the extension of the attacker and his brutal deed. But she might also consider the child as an opportunity to extend her own selfhood in a unique way; by forgiveness, generosity, and gentleness she can overcome vio-

lence, whereas abortion would only compound the violence done to her by a violence to another who also has sprung—although unwillingly—from herself.

Pregnancy that is a serious threat to the mother's life is seldom if ever a clear and present danger to which there is no alternative. Is a woman wicked who chooses to take the risk involved, preferring danger for herself to certain death for her child? If utilitarianism were correct in justifying abortion, then the alternative chosen by such a mother would be wicked, for her commitment would be to something less than the greatest net good. But who can say that the attitude of such a mother may not be a good greater than life itself?

Even Fletcher's case of a doctor who aborted three thousand inmates of a concentration camp is less clear cut than he suggests. Compassionate as we must be toward the physician and the mothers who chose abortion in that horrible situation, might we not view their act as a failure—understandable in view of the weakness of human nature—to resist the dehumanizing effects of the degrading inhumanity of their oppressors? If all the victims had resisted to their utmost, might not the Nazi persecution have been less devastating? And what of the millions of ordinary, non-Nazi citizens who participated only by omitting to oppose the terror? Was their inaction justified by their utilitarian concern for their families and their realistic awareness that no one person's resistance would alter the course of the Nazi leadership?

Again, we must ask whether a woman was wicked who refused abortion, preferring that she and her child suffer death than that she kill her child to save herself? If such a choice would not have been immoral, then Fletcher should have to admit that the greatest net good was not necessarily achieved by aborting the three thousand women. Of course, those who are not utilitarians might solve the problem by holding that neither course would have been evil, or by admitting that six thousand murders were prevented at the cost of three thousand murders. A utilitarian must say it is better that there be more participants in murder provided that there be fewer victims. But if the attitudes of persons are more important, morally speaking, than good consequences, perhaps limiting the number of murderers is more important than limiting the number of victims.

Utilitarianism always has been attacked because judgments made according to it do not seem to jibe well with many intuitive judgments about justice. When the stakes are sufficiently high, utilitarianism can justify the use of torture and the terrorization of the innocent. Many who support abortion on utilitarian grounds inconsistently apply non-utilitarian standards of justice by absolutely condemning the use of torture and terror in a situation such as the Vietnam war.

A common counterexample used to challenge utilitarianism is a situation in which a judge can save a dozen innocent men from a lynch mob by condemning two of them to death—though he knows they are not guilty. For the judge to give victims to the mob seems patently unjust, yet utilitarianism seems to require judicial murder in this case.

Of course, a utilitarian can defend himself by rejecting the judicial murder on the ground that its consequences would include not only the death of the two victims and the saving of ten others but also the perversion of a system of law on which the whole social order depends. But one can equally argue that abortion alters for the worse the attitude toward life of everyone involved, that abortion lessens the confidence of everyone in his own security, and that it introduces into the family an element of violence that can hardly be contained in this single situation.

Even if the unborn are admitted to be persons, utilitarianism can offer some justification for abortion. But the justification will not be very plausible, because utilitarianism is not a very plausible ethical theory. A humanism that permits the end to justify the means is hardly likely to promote social stability unless the end is itself the community's welfare—as is the case in Marxism—rather than the individual's.

Our present crisis of law and disorder is rather telling evidence—and utilitarian evidence at that—against the acceptability in our society of a theory that the end justifies the means, for with us every individual and group is free to decide for himself and itself what the justifying end is to be. The social order that is essential to personal security can be reconciled with liberty as extensive as we enjoy only if we all agree in recognizing that there are some kinds of act that are never justified, regardless of the prospective net good someone might think would follow from their performance in his situation. I will discuss this point at length in chapter seven.

#### Situationism—Modern Protestant Ethics

Fletcher entitled one of his books: *Situation Ethics: the New Morality*. His contention is that his position is akin to the situation ethics (or situationism) which during the past forty years has become the dominant approach to moral problems among Protestant theologians. Actually, however, Fletcher's position is akin to utilitarianism, as we have seen. Fletcher himself sharply criticizes the leading figures in the situationist movement.

For example, Fletcher writes concerning Karl Barth, who is probably the greatest Protestant theologian of our times:

Karl Barth puts himself in an untenable corner with the intrinsic fallacy. On the subject of abortion he first says that an unformed, unborn embryo is a child and that to stop it is murder. Then he declares, uncomfortably, that although abortion is "absolutely" wrong, it can sometimes be excused and forgiven. Therefore he is in the intrinsic camp but merciful about it. Finally he blurts out: "Let us be quite frank and say that there are situations in which the killing of germinating life does not constitute murder *but is in fact commanded*" (italics added). This puts Barth in the anomalous position of saying that to obey God's command (to act lovingly) is to do something absolutely wrong. Clearly this is theological-ethical nonsense.<sup>43</sup>

Again, having condemned as “nightmare legalism” the Catholic position that in hopeless cases it is wrong to kill the baby even if that means allowing the mother to die, Fletcher attacks Dietrich Bonhoeffer, a Lutheran who was executed by the Nazis for fighting their regime and whose writings have greatly influenced recent theology:

Inexplicably, shockingly, Dietrich Bonhoeffer says the same thing: “The life of the mother is in the hand of God, but the life of the child is arbitrarily extinguished. The question whether the life of the mother or the life of the child is of greater value can hardly be a matter for a human decision.”<sup>44</sup>

Fletcher could have accused Bonhoeffer of inconsistency as he did Barth by applying to the topic of abortion a general statement by Bonhoeffer that is worth noting:

For the sake of God and of our neighbor, and that means for the sake of Christ, there is a freedom from the keeping holy of the Sabbath, from the honouring of our parents, and indeed from the whole of the divine law, a freedom which breaks this law, but only in order to give effect to it anew. The suspension of the law can only serve the true fulfillment of it . . . Whether an action arises from responsibility or from cynicism is shown only by whether or not the objective guilt of the violation of the law is recognized and acknowledged, and by whether or not, precisely in this violation, the law is hallowed.<sup>45</sup>

Thus Bonhoeffer also rejects Fletcher’s view that acts become morally good if they have good consequences.

These passages show clearly enough that situation ethics is somehow different from Fletcher’s “new morality.” But if we are to do more than reject this approach as “theological-ethical nonsense,” we have to try to understand its paradoxical view of moral issues.

It will help us to understand Protestant situation ethics if we look back to the ethical theory of Immanuel Kant, who wrote around the beginning of the nineteenth century. Kant’s ethics is strictly philosophical, not theological. However, Kant tried to transpose into philosophical terms the traditional Protestant moral outlook, rather than reacting to it as the utilitarians did. Kant, in turn, has strongly influenced subsequent Protestant moral thought.

Kant completely rejects the utilitarian idea that human acts get their moral quality from their consequences. He realizes fully that such a theory reduces morality to technique and that it depersonalizes man. He particularly notices that if utilitarianism could be true, then human freedom (and hence morality itself) would be impossible.

In order to insure that the determinism of the natural world will not obstruct morality, Kant completely separates the moral self from the physical world of experience, including the body and outward behavior. The whole essence of moral life for Kant is therefore found in the inner acts of thought and intent. Goodness, Kant believes, is centered wholly in a good will—that is, in the uprightness of the attitude with which one acts.



But what constitutes an upright attitude? Kant cannot answer this question except in terms of the inner standards of the life of the mind itself, for to go outside would mean that something else is imposed on the moral self. Such an imposition would be not a moral "ought" but a freedom-destroying "must." Therefore, Kant says that uprightness of moral attitude, good will, consists in acting for the purpose of doing what is morally right. In other words, our action is morally good if it springs from a will bent on doing what we ought to do.

What ought we to do? Kant explains that whenever we act, our action implies a general rule. Human action is meaningful with a meaning that our own intelligence puts into it. In the back of our minds as we act, there is always the thought: "Since such-and-such is what I want to accomplish and the factors in the situation I am up against are so-and-so, such-and-such an act is the appropriate sort of thing for me to do." Now, Kant says, if the rule we have in mind is consistent with itself and if it could consistently fit into a system of universal laws that we would really want everyone to follow consistently, then actions shaped by that rule ought to be done. If our rule is inconsistent with itself or could not fit in a system of universal laws that we would really want everyone to follow consistently, then the rule cannot be adopted. If man were only his reason, Kant believes, he would never be unreasonable and so could not ever do anything immoral. But since we also exist as objects in the natural world, our natural inclinations can get the better of our reason. In that case we slip in a private rule of action which reason could not approve, and our action is immoral.<sup>46</sup>

Now, what Kant has done preserves much of what Christians have meant by morality, but does so without giving God the central place He traditionally held. Man's goodness still depends on a free commitment for Kant, but instead of a commitment to accept God's revelation it is a commitment to hold to man's own reason. Instead of the universal harmony Christians hope will be achieved by God's providence, which orders all things well for those who love Him, Kant hopes for a universal harmony based on the consistent system of moral laws which men make for themselves. Instead of original sin, which Christians believed disrupted man's integrity by separating him from God, Kant thought that man's condition as a being in nature as well as a rational, moral agent explained man's lack of integrity—his ability to do evil.

Clearly, no one who has Christian faith can *agree* with Kant. Contemporary Protestant situation ethics does not agree with him.<sup>47</sup> Yet it is profoundly influenced by Kant because it tends to disagree with him on his own terms. In other words, the situationists take much of their understanding of what morality is all about from Kant's explanation of it. In doing so, they are at least considerably nearer the truth of the matter than someone like Fletcher with his borrowing from utilitarianism.

For the situationists, as for Kant, nature, including (and especially) human nature, is a source of moral ambiguity (fallen nature) rather than a source

of moral guidance. Moral goodness is located by the situationists, as by Kant, in the upright attitude of the person acting—that is, in his good will. But his will is good by responding to God's love with a commitment of faith rather than by a commitment to reason itself.

The tendency of Protestantism to set freedom and faith against law and reason combines in the situationists with a Kantian conception of law and reason to bring about their strong reaction against absolute, universal moral principles. Since faith, not reason, is to be the moral guide, the conscience of the believer (which is the Protestant principle for deciding issues of faith) must not be bound by universal moral laws. Such general principles can convey at best an approximate articulation of God's will. His actual will can be discerned only with the aid of the Spirit enlightening the conscience at the moment of decision in each unique, concrete situation.

Moreover, because Kant emphasized so exclusively the moral significance of one's inner attitude toward moral law and neglected the significance of behavior itself, his system does not provide a clear basis for distinguishing between the morality of an action and that of an omission having the same effect and intent. For example, it is difficult to understand in Kant's framework why it could be permissible to allow a terminally ill patient to die (e.g., by not stimulating his heart action) but immoral to kill the same patient (e.g., by purposely giving an overdose of drugs). Some later philosophers who reacted to Kant by insisting on the importance of specific values did not help to clear up this point when they insisted that values directly demand to be realized or embodied through human action.<sup>48</sup> Obviously, on this view, the demand is frustrated equally by action and by omission.

These rather abstract, theoretical points become urgently important in conflict situations. If one violates the moral law (or the demands of values) equally by action and by omission, how can one avoid immorality in situations where there is no completely satisfactory solution—e.g., where the mother may die unless the fetus is aborted? Kant himself recognized that such borderline cases arise and must be considered, but he did not see any theoretical way of settling them, and turned the matter over to "morally-practical reason"—an estimate in the concrete situation.<sup>49</sup> The situationists follow Kant on this point (though often expressing themselves in the later terminology of conflicts of values) and it is from this that *situationism* gets its name.

The general structure of situationism which we have outlined will make situationist treatments of the moral problem of abortion intelligible. We shall look at Barth, Thieliicke, and Ramsey.

Barth begins his discussion of abortion by explaining that murder is arbitrary killing, the killing of another on the basis of one's private opinion and the desiderata of one's personal situation. Yet Barth believes that there are exceptional cases in which killing is not arbitrary, because it is done in obedience to the commandment rather than on one's own authority.<sup>50</sup>

Barth declares without qualification that the unborn child is a human being from conception onward, and that its life must be respected. That life has been redeemed by Christ; that life is a gift of God. As a gift, Barth insists, life is not an imposition and the "No" to its destruction is not a mere negation restricting freedom. Rather, that "No" is in harmony with freedom, for it evokes a willing respect for life which includes the impermissibility of arbitrary killing.<sup>51</sup>

But if abortion is a sin, it is not simply the personal sin of the one who performs or seeks it, but an aspect of the sinful world which already is redeemed. Here the question of the exception arises. The preservation of life is not itself an absolute, but only so far as God commands it. May He not sometimes also exercise His sovereignty in taking life by requiring men to serve Him in this way? Barth says yes. At times the killing of the unborn is commanded. These are situations in which abortion is a last resort—in general, situations where the life of the child is balanced against the life or health of the mother. But by "commanded" Barth does not mean "made obligatory"; rather, he means "authorized." Since there is an irresolvable conflict, the respect required for life as a gift of God is compatible with either abortion or a heroic risk by the self-sacrificing mother.<sup>52</sup>

Finally, Barth considers the relation of morality to law. Law which permits an exception in conflict cases is in general agreement with morality and is a useful guide. Still, he refuses to admit that conscientious decision will necessarily fall within the limits of any human law. Perhaps a socio-medical indication may be valid in some cases. What is required is careful reflection, an attitude of obedience toward God, and "faith that God will forgive the elements of human sin involved."<sup>53</sup>

Barth's perspective clearly is altogether different from Fletcher's. Barth's ethics is really theological. He presupposes a traditional Christian evaluation of nascent life. The justification of abortion in difficult cases is based on a conception of conscientious discernment of divine authorization as one reflects on the conflicting elements of a situation that, in our sinful world, is unsolvable. Fletcher justifies abortion and makes it good precisely in a way that for Barth would make it arbitrary killing—murder. For Barth, even the exception involves elements of human sin that require forgiveness. This position was taken up by Bonhoeffer, who did not apply it to abortion, however. But it is developed at great length by Helmut Thielicke.

Thielicke, like Barth, begins with insistence on the humanity of the unborn child and the seriousness of killing it. Parenthood, a God-given responsibility, begins with conception. A worth not merely human but based on the grace of Christ attaches even—or especially—to those who seem least in human dignity. Thielicke firmly rules out a "social" indication for abortion, because the conflict in such cases can be solved without killing. He also mentions, but seems to disapprove without discussion, the "eugenic" indication.<sup>54</sup>

In much more detail than Barth, Thieliicke proposes a theological account of the conflict between life and life. The order of nature as we find it is not as it should be; it has been distorted by sin, which introduces conflict. One cannot read God's will in the given state of things. Nothing we can do in a conflict situation will correspond to what we really ought to do—that is, to what would be right in a world unspoiled by sin. In this sense, any solution contravenes God's will and contributes to the extension and perpetuation of sin. For this reason, the killing of the unborn child, even to save its mother's life, is truly a sin. But it also is forgiven, and somehow will be overcome in the providence of God, who already has saved the world from sin and who will in due course make that salvation manifest.<sup>55</sup>

Finally, Thieliicke suggests that because the unborn child is less developed than the mother, there is a quantitative although not a qualitative basis for approving abortion in cases of conflict. Abortion still kills a human being, but a lesser one, and so abortion is to be viewed as an evil, but as a lesser evil.<sup>56</sup>

Paul Ramsey carefully considers the biological data regarding nascent life. He adopts much of Barth's theological view of the problem, and firmly rejects the utilitarian justification of abortion accepted by Fletcher. Like Thieliicke, Ramsey only considers abortion possibly justified when there is a conflict of life with life.

But Ramsey does not accept the analysis of the conflict situation as one arising from and inevitably leading to sin. Instead, he takes an approach much nearer to the Catholic theological tradition which we reviewed in chapter four. Indirect abortion—i.e., abortion incidentally consequent on another necessary medical procedure—is justified as indirect. In other cases of conflict, Ramsey holds that the fetus may be aborted to save the life of the mother because it is a materially unjust aggressor. (This view has been proposed by some Catholic theologians too but never approved by the Church itself.)<sup>57</sup>

Clearly Ramsey does not share the Kantian background of other Protestant situationists, and there are important theological differences as well that derive from the fact that Ramsey is a Methodist rather than a Calvinist or Lutheran. However, Ramsey is like Barth, Thieliicke, and many other Protestant moralists in substantially maintaining the Christian tradition while finding grounds for approving abortion only in very restricted cases. Against the "new morality" of utilitarianism, Protestant situationism defends the sanctity of life and looks to an upright attitude rather than to good consequences as the measure of the moral goodness of our acts.

In general, Protestant situationism does not seek to solve ethical problems by a purely rational, philosophic approach. Therefore, it is not a devastating criticism to notice that the theory is not rationally defensible. Still, it is true that from a philosophic point of view, the explanation of conflict situations is scarcely coherent. Moreover, it is as impossible to argue *against* as it is to argue *for* the moral judgment of someone who believes he is required and guided by

God to do something both sinful and forgiven. On the other hand, when Ramsey treats the fetus that endangers its mother's life as a materially unjust aggressor, he is stretching a category that was designed for an altogether different situation. The conclusion may be sound, but the analogy seems far-fetched.

Perhaps the greatest weakness of Protestant situation ethics is that it presupposes and takes for granted—rather than tries to establish—the principle of the sanctity of life and the moral obligation to respect it regardless of consequences. Since these authors do not see clearly why this principle should hold true (except on theological grounds), there is always the danger that the exceptions permitted by them will subvert the principle itself. Yet their reflections do offer suggestions that it is possible to admit exceptions in the very extreme cases of conflict without introducing a justification that relativizes the value of human life as utilitarianism does. If Protestant situation ethics is not philosophically satisfying, it at least powerfully calls philosophic attention to the problem of conflict situations, and this problem will have to be faced by any ethics.

Before proceeding to a constructive effort to deal with the ethical questions raised by this problem, a few words are in order about the approach of the Anglican pamphlet, previously cited for the position that the fetus is *potentially* human.<sup>58</sup> The committee judges various proposed kinds of cases on the basis of an apparently utilitarian analysis. This analysis is much subtler than that of Fletcher, and does not lead to any unrestricted approval of abortion. Basically, the position is that the alternative leading to the lesser evil is right. Where the alternative to abortion is any real threat to the physical or mental health of the mother (her psycho-physical well-being) considered in integral connection with the well-being of her family, then abortion is judged to be right. The risk of deformity does not itself justify abortion, although the effect on the mother of anticipated risk may. The committee considers eugenic abortion in the interests of the fetus unjustified, especially because the principle involved would also support killing the unfit after their birth. Pregnancy resulting from rape and incest does not automatically justify abortion, but the great dependence of the fetus on the mother is here used as a ground for justifying abortion if she has an invincible aversion to going through with the pregnancy.<sup>59</sup>

In short, the Anglican committee does not regard abortion as an alternative method of birth control. However, since the fetus is viewed as inherently inferior in rights to the mother, it may be killed whenever she will be significantly aided in her over-all well-being. This approach frankly balances net goods, and in the balancing the unborn weigh little. The Anglican committee thus does not wrestle with the issues as Protestant situation ethics does; the Anglicans seem to accept the depersonalizing model of utilitarian ethics rather than to maintain the more personalistic conception of man assumed by those in the Kantian tradition.

## A Reformulation of the Ethical Issue

In denying that there is any kind of act so evil that good consequences might not sometimes justify it, utilitarianism excluded the notion that we have any duties that we must always fulfill, regardless of consequences. But if we have no such duties, then neither do we have any unexceptionable rights. Rights and duties are correlative. If I have an unalienable right to life, then it is always wrong for others to kill me. If it is sometimes justified for them to kill me, then my right to life is not unalienable—rather, it all depends on circumstances.

In general, we tend to believe that all men are equal in their right to life and that all men have an equal duty to respect the lives of others. We make exceptions in regard to capital punishment and justified killing in war. But in such cases we think that the criminal or the enemy has somehow surrendered the common, equal right to respect for life.

Obviously, our belief in equality in the right to life is incompatible with utilitarianism. Also, though less obviously, any approach that tries to justify any killing of one human being by another on the basis of factual differences between the two is slipping into a utilitarian attitude toward the good of human life. For, in fact, it is of course true that all of us differ from one another in many ways and all of us are unequal on the basis of each and every difference. No one is superior in every respect; there is some way in which each of us is definitely inferior to others.

To decide that some of these differences, some of these inequalities, some of these ways of being inferior can so detract from the basic worth of a person as to warrant his destruction by another is essentially to decide that all persons have a certain definite and limited worth and that certain facts characterizing persons can lessen that worth in a definite and calculable way. Now, this is precisely the mistake of utilitarianism. It understands human worth not in terms of what is intrinsic to the person and his life—dignity—but in terms of what is extrinsic—value *for something*. Human goods can then be appraised and weighed, and the right to kill will depend upon computation.

In effect, utilitarianism puts a price on every man's head. Every person is transformed into an object. On the model of technological reasoning, the price of one is compared with the price of another. Those whose lives, if continued, would detract from rather than add to the sum total of human value must be eliminated, just as an employer gets rid of an unproductive employee by firing him.

We may feel safe enough, personally, in using the factual inequality and inferiority of the embryo as a ground for treating its life as expendable. After all, we are not now and never again will be unequal and inferior in just the way that the embryo is. But in reasoning thus we are being arbitrary, for we are selecting as decisive the characteristics we prefer among all the differences

of human beings. And we must always remember that there is no common denominator of the importance of these differences.

Thus, we may suppose that the embryo's right to life must give way because it is undeveloped, because its specifically human abilities are latent in potentiality. If the embryo could argue with us, however, he might contend that the life of an adult is of less worth than his. After all, the adult has less time left to live, and all that he has gained in actualization he has lost in possibility. Most of what he could have been has been sacrificed in his becoming what he is, and much that he has been can never be recaptured.

"Isn't it part of the *wonder* you feel when you hold an infant," the embryo might ask us, "that he can still be anything, that all of life lies open before him? And isn't it part of the *sadness* you feel as you grow older that possibilities are closing off for you, like so many gates slamming shut in the maze of life, until there remains only one gate open—the one that leads into the darkness of death? If death is not better than life," the embryo might conclude his case against the mature adult, "then my life is far better than yours, for my life is a process of development and ever increasing vitality, while yours is a process of deterioration and waning vitality as you decline toward death."

I do not suggest that the embryo's argument would be sound; obviously it is fallacious to suppose that the dignity of a person is measured by his degree of vitality. But the embryo's argument would be no more fallacious than ours, if we measure his worth by his degree of development. And our argument would certainly sound fallacious to him, if he were able to hear and comprehend it.

The ethical issue regarding abortion, therefore, is not precisely stated when it is put in terms of whether it is ever morally right to kill the unborn and, if so, under what conditions. Rather, the question is whether it is ever morally right for any human person to kill another one and, if so, under what conditions. To question the absoluteness of the right to life of the unborn is to question the absoluteness of everyone's right to life. Since, as persons, we are incomparable with one another in dignity and equal in our right to life, the principle that protects the lives of all of us also protects the lives of those unborn, while any reasonable ground for morally approving the killing of those unborn also is a reasonable ground for morally approving the killing of persons in any other period or condition of their lives.

Since, in fact, we do believe that on the whole it is wrong to kill human beings but that in certain cases such killing is justifiable, our problem is reduced to investigating whether this belief is correct and, if so, why. Then we must apply to the special case of the unborn any ground that justifies killing, to see which justifications for abortion, if any, are valid.

It might be objected that our examination of the question whether the aborted are human beings did not demonstrate absolutely that they are, in fact, persons. But this objection would miss the point of that consideration in two ways.

In the first place, we saw that beyond doubt the *facts* show the embryo at every stage to be a *living, human individual*. To go beyond this is not a question of fact but a question of metaphysics. We should not expect and will never get a factual answer to the ulterior question. What our arguments revealed is that there is no compelling reason to deny that the embryo is a person. As the Anglican committee frankly stated, to deny personality to the embryo is merely a postulate necessary to leave room for killing it. If ethics is to be anything better than rationalization, such an approach will not do. We must admit, at the very least, that the embryo can as well be considered a person as not.

And therefore, in the second place, ethics must proceed on the supposition that abortion does kill a person. For ethics is concerned with moral responsibility for doing what is right and wrong, and right and wrong are in one's willingness, not in what is beyond our knowledge, actual or even possible. We do not consider ourselves immoral if we discover that some action of ours seriously harmed another, though we did not know and could not have known it would have that effect. Similarly, we cannot consider ourselves blameless if we are willing to kill what may or may not be a person, even if it is not.

In being willing to kill the embryo, we accept responsibility for killing what we must admit *may* be a person. There is some reason to believe it is—namely the *fact* that it is a living, human individual and the inconclusiveness of arguments that try to exclude it from the protected circle of personhood.

*To be willing to kill what for all we know could be a person is to be willing to kill it if it is a person.* And since we cannot absolutely settle if it is a person except by a metaphysical postulate, for all practical purposes we must hold that to be willing to kill the embryo is to be willing to kill a person.

Consequently, we may not evade moral responsibility for killing a person if we take responsibility for an abortion. This is not yet to say that the responsibility is always *guilt*; that will be true only if killing such persons is always *wrong*.

The important point to realize is that ethical consideration of abortion must not treat it as an isolated case, as if it had nothing to do with the whole question of the ethics of killing human beings. Certainly, the literature we have reviewed also shows that abortion is connected with other forms of killing such as infanticide, and euthanasia. If a utilitarian theory is accepted, not only the personhood of the unborn, but the personhood of all of us is put in jeopardy. Anyone with sufficient ingenuity in metaphysical argument should be able to construct some sort of plausible theory of personality according to which any one of us will turn out to be a non-person.

It is also important to notice that in locating the ethical issue in the way I do, the following discussion does not become completely separated from serious ethical reflection with which I do not wholly agree. The Protestant situationists (as distinguished from those who hold a form of utilitarianism)



examine the issue of abortion in the context of a firm conviction that the real issue is the justifiability of taking the lives of persons. Moreover, not only theological moral reflection but also secular medical and jurisprudential consideration, until the last few years, proceeded generally on the same basis, as we have seen in many places in the literature reviewed in earlier chapters.<sup>60</sup>

### Beyond the New Morality and Situationism

Contemporary events have made all of us acutely aware that the fundamental political problem is how to reconcile law and order on the one hand with liberty and social transformation on the other. This political problem has certain dimensions that go beyond the consideration of ethics, but at the heart of the political question is the central issue of ethical theory: how to reconcile the freedom characteristic of the morally responsible person with objective standards of right and wrong.

The problem of reconciling these two aspects of moral action is not primarily a question of balancing one against the other. Moral freedom and moral standards are not values to be pursued but necessary conditions without which moral life would not be possible at all. It would not make sense to discuss what we ought to do, to argue what is right and wrong, unless we could do as we ought and also could do as we ought not. On the other hand, our freedom would be meaningless if nothing we did made any significant difference, and that would be the case if there were no objective standards at all. Ethics begins with some simple assumptions:

1) Not every human act is right; sometimes someone does something wrong.

2) It is one thing to know what is right and another to do it. Sometimes, at least, it is possible for us to choose whether or not we will do what we think we ought to do.

Thus any ethics must try to reconcile moral freedom with moral standards. The reconciliation should be made not by dividing spheres of influence, as if the two were separate and self-contained entities. No, both pervade the *whole* of moral life; ethics must show how they imply one another, even how—in a certain sense—they coincide in morally responsible action.

The subjectivism and relativism we considered early in this chapter fall short of being ethical theories because they exclude moral standards and so make moral argument impossible. Though widespread as a popular attitude, the confusion involved in total subjectivism and relativism too obviously implies a denial of the basic facts of moral life to win support from those who consider the matter reflectively.

There are those who hold the extreme opposite position from subjectivism and relativism. Some philosophers and others, including certain theologians

and psychiatrists, have claimed that moral freedom and responsibility is a complete illusion. This illusion along with moral standards and the entire apparatus of "morality" are facts that must be explained by a philosophical or theological or psychological theory, but the theory will show that everything happens by metaphysical or divine or subconscious causes, so that man never really *does* anything.

Such theories are illuminating to the extent that they reveal many ways in which our freedom and responsibility are much more restricted than we might suppose. Moreover, they remind us that there are some objective conditions of human life—whether these are expressed in terms of a structure of reality, an order of providence, or human nature itself. However, theories of this sort conflict with the obvious facts of human life. Those who propose them frequently outline at least a minimal ethics, consisting in the obligation to get rid of the illusion of morality and to bring about enhanced human well-being by philosophic enlightenment or religious faith or psychological insight. Even if it is possible to think theoretically that we are not free, we go right on thinking practically as if we were.

Utilitarianism, Kantianism, and Protestant situationism do not take an extreme position with regard to freedom and moral standards. Rather than to exclude either altogether, these theories try to include both and to reconcile them. But none succeeds very well.

Utilitarianism, as we have seen, provides no standards at all for settling what our purposes will be. Therefore, the most important decisions are left to subjective whim, unless it is claimed that natural necessity (or the "dialectic of history") determines the goals of life for us. Once our purposes are settled, the theory would imprison life within them. If it were really possible to reason as utilitarianism says we should, calculation would exclude freedom.

Kant's theory seems to provide some moral standards, but unless one takes traditional morality for granted (as Kant himself did) it is hard to tell that a rule of action fails to meet the consistency requirement Kant sets. Anything one does might pass the test provided that what is being done is specified in sufficient detail. For example, if we cannot make a consistent rule that anyone who wants information from another may use torture to get it, we do not see clearly that Kant's criterion excludes torture altogether, for no one would try to justify its use by so broad a principle as that.

At the same time as we encounter difficulties in determining moral standards by Kant's theory, we also find it hard to see how he has room for freedom. He is acutely aware of freedom, but he identifies morally good will with practical reason itself, which is simply what man's moral selfhood is. The possibility of one being other than purely rational, therefore, does not depend upon his moral freedom, but on the fact that man also belongs to the natural world where his behavior is determined by empirical causes. How moral man either resists or does not resist these causes Kant never explains.

Protestant situationism is acutely aware of the difficulty of reconciling freedom with moral standards. But the theologians do not offer any *philosophic* solution to the problem. Rather, they maintain that man cannot achieve a reconciliation of the two principles. Their reconciliation is only in God, who somehow communicates it to man (grace). But the reality of the solution remains in the realm of mystery—so much so that most of the situationists believe that in some situations there is no alternative to doing something morally evil.

A more satisfactory ethical theory must begin from the recognition that freedom is a principle of every moral act without exception. But the word “freedom” has several meanings, and we must notice in what sense freedom is a principle of moral action.

In one sense, “freedom” means liberty to do as we choose without external constraint or internal inhibition. Obviously, life is impossible without some degree of liberty, and complete liberty is equally impossible. But liberty of this sort is not a principle of all moral action, since moral responsibility already is accepted when we make a choice, even if we lack the liberty to execute it.

In a second sense, “freedom” means autonomy to judge what we should choose independently of the judgments of others. Such freedom is the opposite of obedience to authority. Again, it is obvious that one cannot live an adult life without a measure of autonomy, since an adult must somehow share in authority to which he submits, at least by judging for himself the rightfulness of the authority’s claim to jurisdiction. But autonomy is not a principle of all moral action, since much of our action involves others and hence must be guided by authority responsible for the common good. Even in the most democratic society, individual judgment normally must yield to the conclusions of legitimately conducted common deliberation, or social order will give way to anarchy with a consequent drastic reduction in the liberty of all.

In a third sense “freedom” means self-determination—the ability to act or not act, to act this way or that. Self-determination is not the ability to do as we choose (liberty), nor is it independence in judging what we should do (autonomy). Rather, self-determination is the capacity to determine our own life by our own power of choice.

If we seek within our experience for the cause of the fact that we have actually done something for which we feel moral responsibility, we always come back to the point at which we ourselves made a choice. Prior to the choice itself, we were aware of two or more incompatible possibilities lying in the future before us. It seemed to us that none of these possibilities was bound to occur; we felt that only we ourselves could settle whether or not the possible would become real.

We therefore considered each possibility in turn, noting the pros and cons of each. These pros and cons were not altogether comparable; although we noted some common factors, we did not find that one alternative included all the pros and excluded all the cons of the other (or else they would not have

appeared to be genuine alternatives). With some perplexity at the lack of any common measure of pros and cons, any least common denominator of goods, we acutely felt the need to settle the indeterminacy ourselves. Considering each of the alternatives from the point of view of the value peculiar to that alternative, other possibilities seem clearly inferior. But since every possibility seems better after its own fashion, the quest for the altogether better is frustrated. The possibilities are incomparable; there is no way to measure one better against a better of a diverse sort.

It is worth noticing, in passing, that utilitarianism goes wrong by ignoring this fact: that there is no "greatest net good," since goods are incomparable. Utilitarianism logically must presuppose that the choice is already made, the value-perspective already settled, that there is no self-determination. But in this assumption utilitarianism violates the facts of everyday experience, for we constantly find ourselves having to determine ourselves to realize one possibility rather than another. And we do this not by weighing one against another, as if there were comparable goods and a common measure, but by accepting one way of being good rather than the other as the standard by which we shall proceed in this case.

Our problem in choosing is like that of a person who is asked which is worth more, a dollar bill or a copper cent. So long as the credit of the government is good, the bill will be worth more *as money*. But if one desperately needs a bit of copper to bridge a gap in an electrical circuit, the penny would be worth something and the paper bill worth nothing. So it is whenever we choose: we must settle which of two or more possible "betters" will be realized by us.

Thus we determine ourselves by taking as a measure of good the standard by which one alternative will appear decisively better. And once we have chosen, the rejected alternatives seem to pale in attractiveness; no longer impartially considering all possibilities from the perspective of each in turn, we view the whole set of possibilities from the single viewpoint of the good proper to the one to which we have committed ourselves.

Looking back upon a choice already made, we always seem to have chosen the greater good—the alternative that appeared better. Some argue from this that we do not really determine ourselves, but rather are compelled to choose the greater good. They forget that before self-determination, each alternative seemed the better in its own way, and that our perplexity in seeking the greater good was terminated only when we ourselves selected the single measure of good that we would apply to all possibilities—a measure according to which one possibility became unambiguously better.

Of course, it can be argued that our experience of self-determination, of making a real difference, of initiating action of ourselves is illusory. It can be argued that the facts of experience must be explained by hidden causes: by heredity and environment, by God, by absolute spirit, by the world-soul. We

need not enter into such metaphysical and theological speculations here. If our choices have such causes, we do not experience their action upon us.

We do experience ourselves determining ourselves to act, to realize one possibility rather than another. This experience is what we mean by self-determination, and self-determination is all we require to recognize our own responsibility. Thus, it seems to us that heredity and environment, for example, determine our character and our life only insofar as we endorse and appropriate by our own choices the individual identity shaped for us by our origins. We feel that by our power of choice we could to some extent struggle against heredity and environment, and that to the extent we could not, we are free of moral responsibility.

Therefore, it is in this sense, as self-determination, that freedom is a necessary principle of morality. Freedom is the beginning of every moral act, for whether or not we act to realize any particular possibility is a matter of our own choice. And where there is no choice, there is no morality, no question of right and wrong. We do not hold animals and infants responsible in the moral sense, because we do not see evidence of deliberation and self-determination. They may be good or bad by instinct or by training, but though we call a dog "vicious" by analogy, we do not call a good dog "virtuous." If we punish and reward animals, it is not that we consider their acts right or wrong, but that we believe our treatment can determine their behavior as we wish.

Still, even though we find the source of the fact of moral action in our self-determination, this freedom does not explain the meaning or purpose of what we do. *That* we act depends on our choice alone; *what* our act is, depends on our understanding of what we are doing, of what good gives meaning to our action.

Moreover, the moral question—what we ought to do—is merely one factor we consider in deliberating about diverse goods and making choices. We can conceive intelligible alternatives to what we ought to do and we can choose an alternative contrary to our own moral judgment against it. If this were not so, we could never experience moral guilt, for we would never knowingly do what we believe wrong. In fact, we do. We are free to act against morality, but we are not free to make our immorality right, as everyone knows whenever he suffers from a bad conscience.

The source of the meaning or purpose of what we do is revealed when we ask: "Why did I choose *that*?" The answer must be given in terms of the good we saw in the possibility we chose. Although that good was not compelling to the exclusion of alternative possibilities which carried their own incommensurable goods, the good proper to the alternative we chose was a necessary condition for our choice of it and was a sufficient reason to make that choice intelligible (even if immoral). Thus the freedom of self-determination is not irrational, as if we could act with no reason at all. Rather, freedom is possible because each alternative that is open to us presents itself with a reason adequate to render its selection intelligible.

The immediate reason why we choose in a particular case often is subordinate to an ulterior motive. If we ask a laborer why he is working, he may answer: "To make money." If we ask why he wants to make money, he may reply: "To feed myself and my family, because we get hungry, and to get other necessities to stay alive." If we try to press the inquiry beyond this point, we may find ourselves none too gently rebuffed, not because the person we are questioning is ignorant of a motive beyond the one stated, but because there is no further purpose. To attempt to question the self-sufficiency of a purpose that is in fact ultimate will seem to a simple person evidence that we are ridiculing him.

Considering the ultimate motives for which we act from a psychological point of view, we discern various categories of basic human needs. These are broader than the specific objects of physiological drives which in other animals are satisfied by instinctive behavior. We are interested, for example, not only in satisfying hunger and thirst, in avoiding immediate physical threats, and so on, but in preserving our lives, maintaining physical and mental health, and attaining a condition of safety and security.<sup>61</sup>

If we consider the basic human needs in this broad fashion, we will find the categories of good for which we can act. For we can act only for that which engages our interest, and nothing engages our interest unless it corresponds to some fundamental inclination within ourselves or to an interest derived from such an inclination. The objects of such inclinations are what we mean by basic human needs, understood broadly as explained above.

The technique of questioning, both by reflection on our own purposes and by discussion with others, can be joined to a survey of psychological literature and a comparison with the categories of human activity found by anthropologists to be useful to interpret the facts of life in any culture.

Each of these approaches has its own limitations. The question technique sometimes terminates not in any objective basic need, but rather in an emotional motivation that reflects an unarticulated need only in its impact on feeling. For example, a child may say he plays ball "for fun"; he does not articulate his interest in terms of the value he achieves in the performance itself. The psychologists emphasize physiology and hence they distinguish drives—e.g., hunger and thirst—which subserve a unified intelligible motive—e.g., the preservation of life and health.<sup>62</sup> The anthropologists sometimes include categories of activity which correspond not to basic needs, but to intermediate goods which are only means to more basic needs—e.g., warfare, property, and the form of economy.<sup>63</sup>

A thorough, critical study of all of these approaches would be desirable; however, it would be a major undertaking in itself. I think that such a study would lend empirical support to the following list of fundamental human goods:

- 1) Life itself, including physical and mental health and safety.

2) Activities engaged in for their own sake (e.g., games and hobbies) including those which *also* serve an ulterior purpose (e.g., work performed as self-expression and self-fulfillment, which also has a useful and economically significant result).

3) Experiences sought for their own sake (e.g., esthetic experiences and watching professional athletic competitions).

4) Knowledge pursued for its own sake (e.g., theoretical science and speculative philosophy).

5) Interior integrity—harmony or peace among the various components of the self.

6) Genuineness—conformity between one's inner self and his outward behavior.

7) Justice and friendship—peace and cooperation among men.

8) Worship and holiness—the reconciliation of mankind to God.

The first four of these groups of goods are understandable without introducing the notion of self-determination in their very meanings. Their achievement depends on human action but their meaning does not. The latter four, by contrast, cannot be understood without including the idea of self-determination. The first four embrace the perfections of a human being according to his specific nature: the exercise of natural functions, physical activity, psychic receptivity, and cognitive reflection. The latter four embrace the perfections of human beings according to their capacity to reflect and to live self-conscious lives: unity achieved by reflection and self-determination at each level on which alienation is experienced or believed to exist.

These categories of goods easily can be defined in such a way that the division is logically exhaustive. However, that procedure would only raise a question concerning the adequacy of the description of each member of the division. A more convincing test of the adequacy of this classification is to try to find basic human goods that cannot be located in it. I think that if the considerations mentioned above in respect to the limitations of various approaches are borne in mind, no purpose of human action that is really final will be found in addition to those listed.

In any case, it will be sufficient for our present purpose to note that any list of basic human goods would have to include life itself. Many people spend the greatest part of their time and effort for no other purpose, and simply staying alive generally is regarded as a good even when other goods cannot be achieved.

We are conscious of these basic goods in two distinct ways. By experience, we are aware of our own inclinations and of what satisfies them; our own longings and delights are facts of our conscious life that we discover as we discover other facts. At the same time, by understanding we interpret these facts in a special way; our intelligence is not merely a spectator of the dynamics of our own action, but becomes involved as a molder and director. Understanding grasps in our inclinations the possibilities toward which they point and

understanding becomes practical by proposing these possibilities as goals toward which we might act.

Thus we understand, prior to any choice or reasoning effort, that the basic human goods are possible purposes for our action. To the extent that any action requires some purpose, the basic goods present themselves as purposes-to-be-realized, not merely as objective possibilities. We understand the preservation of our own lives, the pursuit of knowledge, the cultivation of friendship, and the rest as goods-to-be-sought by us.

Their appeal to us for realization is not conditioned upon some prior wish, but rather is the basis for the possibility of all our rational desires. In this respect, the goods are non-hypothetical principles of practical reason such as Kant wished to discover. But they differ from Kant's basic principles in having a content derived from inclination. Kant mistakenly believed that rational principles could be unconditional only by being purely rational. He overlooked the possibility that intelligence can form principles for practical reason by insight into the possibilities opened to our interest by our basic needs.

The practical principles thus express not what *is* so, but what is-to-be through our own action. Practical reason is "ought" thinking just as theoretical reason is "is" thinking.<sup>64</sup> But "ought" here does not necessarily express moral obligation; that is a special form of "ought." Not only are we inclined by appetite to eat when we are hungry, but we know we *ought* to do so. This "ought" expresses the judgment of practical reason ("common sense"), but it need not have the force of moral obligation.

One important point to notice is that practical reason controls the whole area of free action by shaping it from within, rather than by imposing rules from without. If moral obligation is a special form of "ought," it too is an inner requirement of practical reason, not a demand imposed, as if by some external authority. The basic human goods are to be pursued in our actions not because God imposes pursuit of them on us, but because we must pursue some good if rationally guided action—which alone is caused by self-determination—is to be possible at all.

As expressions of what is-to-be, the practical principles present basic human needs as fundamental goods, as ideals. But the ideal character of these goods does not mean that they are wholly apart from man and his real life. The ideals are human ideals, realized in human persons and in human community. They do not transcend man by subordinating his good to any non-human purpose, but only by going beyond what man already is toward that which he is not yet but still may be. It will always be possible for us to discern more clearly in what such goods as health, knowledge, and friendship concretely consist; it will always be possible for us to seek to realize new dimensions of such inexhaustible possibilities.

Protestant situationists who have adopted a theory of objective values as an explanation of the source of moral obligation presuppose principles similar to those just described, although they do not explain the genesis of these



principles by reference to basic needs. More important than this defect of analysis is their too hasty leap from the appeal of the values for realization—that is, from the modality of “is-to-be” in which practical intelligence formulates ideals—to moral obligation. They overlook the fact that if the immediate appeal of each value is translated directly into a moral obligation to respond, then every choice will violate moral requirements. For the very nature of choice is to respond to the appeal of some good at the cost of not responding to some other. If we could have both simultaneously, no choice would ever be needed.

But it is clear that choice is necessary and it is absurd to say that every choice is necessarily evil simply because it is a choice. Clearly, then, the appeal of the goods cannot be taken as the direct determinant of moral obligation. Everything we can do becomes possible only in virtue of these goods; no human act, good or evil, fails to respond to one or more of them, or succeeds in responding in every possible way to all of them. If the basic human goods, which are principles of practical reason, clarify the possibility of every choice, they cannot of themselves determine why some choices are morally good and others morally evil.

What does make this difference? What divides moral good from moral evil? The answer is that moral goodness and evil depend upon the attitude with which we choose. Not that any and every choice would be good if only it were made with the proper attitude, for some choices cannot be made with the right attitude. But if we have the right attitude, we make good choices; if we have the wrong attitude, we make evil ones.

But what is the right attitude? It is realistic, in the sense that it conforms fully with reality. To choose a particular good with an appreciation of its genuine but limited possibility and its objectively human character is to choose it with an attitude of realism. Such choice does not attempt to transform and belittle the goodness of what is not chosen, but only to realize what is chosen.

The attitude which leads to immoral choices, by contrast, narrows the good to the possibilities one chooses to realize. The good is not appreciated in its objectively human character, simply as a good, but as *this* good of *such* a sort to be achieved *by me*. Instead of conforming to the real amplitude of human possibility, such an attitude transforms that possibility by restriction. Immoral choice forecloses possibilities merely because they are not chosen; rather than merely realizing some goods while leaving others unrealized, such choice presumes to negate what it does not embrace in order to exalt what it chooses. Goods equally ultimate are reduced to the status of mere means for maximizing preferred possibilities; principles of practical reason as fundamental as those that make the choice possible are brushed aside as if they wholly lacked validity.

No single good, nothing that can be embraced in the object of any single choice, is sufficient to exhaust human good, to fulfill all of the possibilities open before man. If we choose with an attitude of openness to goods not chosen,

the good is not restricted. We respect the possibility we cannot realize through this choice. But if we restrict our perspective by redefining what is good according to our particular choice, we are attempting to negate the meaningfulness of what we reject and to absolutize what we prefer.

A proper attitude respects equally all of the basic goods and listens equally to all of the appeals they express through principles of practical reason. Because of the incompatibility of actual alternatives, a choice is necessary. But a right attitude does not seek to subvert some principles of practical reason by an appeal to others. An immoral attitude involves such irrationality, for while the evil choice depends upon the principles of practical reason, it seeks to invalidate the claims of those principles which would have grounded an alternate choice.

If the principle that distinguishes moral good from evil is an attitude such as we have just described, still two serious questions must be considered. First, is not moral evil something more interpersonal than the unrealistic and narrow attitude just described? Does not moral evil involve the violation of the good of others? From a religious viewpoint, must it not be seen as alienation from God—a rejection of his love? Second, how does an open attitude such as we have described shape itself into concrete moral obligations to do or avoid specific acts?

The answer to the first question is easy. The principle of moral evil can be located in the unrealistic attitude described, but the impact or significance of such evil is by no means limited to oneself.

If I choose with the attitude that my commitment defines and delimits the good, I shall lack the detachment to appreciate the possibilities of others' lives, which could complement my own by realizing the values I cannot. Their good, which I do not choose, will become for me at best a non-good, something to which I shall remain indifferent. Egoism can decrease only to the extent that I am open to the embrace of all goods, those as well as these, yours as well as mine. The attitude of immorality is an irrational attempt to reorganize the moral universe, so that the center is not the whole range of human possibilities in which we can all share, but the goods I can actually pursue through my actions. Instead of community, immorality generates alienation, and the conflict of competing immoralities is reflected by incompatible personal rationalizations and social ideologies, each of which seeks to remake the entire moral universe in conformity with its own fundamental bias.

Those who understand immorality in religious terms of course cannot be expected to find any merely philosophic account entirely satisfactory. But the philosophic account proposed here might coincide with a religious view. It certainly is impossible to maintain a fully open attitude toward all human goods, irreducibly diverse and incommensurable as they are, unless we accept the reference of our conception of goodness to a reality we do not yet understand.

For if the goods we do know—which constitute a *unified* field for our choices—are not diverse participations in a unity beyond all of them, they must be unified by reference to one another. In that case, what we choose will appropriate the priority of an absolute to which what we reject will be subordinated—if it is regarded as good in any sense at all. However, if we accept the reference of our conception of goodness to a reality we do not yet understand, our openness to that goodness may count as love of it, although it is not an intelligible objective of any particular action.

Such love of the good can be interpreted in a religious context as at least compatible with a response of love to God's love. And if the goodness in question is identified with God, respect and openness to all human goods may be interpreted as man's fulfillment by participation in a good which first belongs to God. An immoral attitude, by contrast, would exclude a real goodness beyond the goods we know and choose; immorality would refuse to seek human fulfillment as a realization by participation in God's own goodness. From a religious viewpoint, any morally evil act, in which the good chosen is made to define goodness itself, really is an instance of covert idolatry.

The second question—how a morally right attitude can shape itself into specific obligations—is extremely important for ethical theory.

The solution almost automatically taken for granted in most contemporary discussions is that openness to all human goods requires a moral judgment in accord with the utilitarian maxim: the greatest good for the greatest number. However, as we have seen, utilitarianism is incoherent, because the goods are many and incommensurable, and there is no single standard or least common denominator by which the "greatest good" could be measured. In fact, self-determination is possible only because the "greatest good" cannot be determined by calculation; utilitarianism is actually incompatible with freedom.

Of course, once a definite goal has been determined, it is possible for us to calculate the efficient means to it. If we take an immoral attitude toward the goods we choose, utilitarianism may seem a suitable method for rationalizing our prejudice. (Not everyone who theorizes as if utilitarianism were a moral system practices what he teaches.)

Ideally, the discernment of specific moral obligations would require neither calculation nor even reflection. If one's moral attitude were right and his whole personality were perfectly integrated with that moral attitude, then his own sense of appropriateness, his own spontaneous judgments, would be the surest index of moral good and evil. This is what St. Augustine meant when he said (in religious terms): "Love God, and then do what you wish."

However, when we have a moral question, obviously our moral sensibility has failed us. At this point it is useless to say: "Act by your own right will," because the question would never have arisen but for the conflict within ourselves. "What we wish" is not decisive because we wish one thing with one part of ourself and another thing with another part.

Then too, when it comes to explaining our moral evaluation to others, our moral sensibility is not helpful, because it is incommunicable. At such a juncture, articulate reasons are essential. We must ask what our moral judgments would be if we were perfectly integrated in accord with a right moral attitude.

First, if we were open to all of the goods, we would at least take them into account in our deliberations. We would never make a choice by which one of the goods was seriously affected without considering our action in that light. Thus, we would never choose to act in a way that caused anyone's death without being aware of the impact of what we were doing. In this respect, Protestant situationism reveals moral sensitivity that seems missing from some utilitarian theories.

Second, if we had a right moral attitude we would avoid ways of acting that inhibit the realization of any one of the goods and prefer ways of acting that contribute to each one, other things being equal. One who has a positive attitude toward human life certainly makes a presumption in its favor and does not gratuitously negate this good (or any other).

Third, if we had a truly realistic appreciation of the entire ambit of human goods, we would not hesitate to contribute our effort to their realization in others, when our help is needed urgently, merely because no particular benefit accrued to ourselves. True enough, we have primary obligations to realize human goods in ourselves and in those near us, for we can do in ourselves what no one else can. But we should be more interested in *the good* than in *our good*. Therefore, we reveal an immoral attitude if we prefer our own good merely because it is ours, when our help is urgently needed by others. For this reason, one who had a morally right attitude certainly would prefer another's life to his own comfort, or to other goods to which he would prefer his own life.

Fourth, if we had a right moral attitude, we would fulfill our role in any cooperative venture into which we enter not only to the extent necessary to get out of it what we seek for ourselves but to the full extent needed to achieve the good whose concrete possibility depends on the common effort. This principle does not preclude the criticism of institutions or the reformation of structures, but it does rule out attempts to revise social relationships simply to make them more favorable to ourselves, even at the expense of the common good. Thus we cannot rightly seek to preserve and protect our own lives by institutions, such as criminal law, which we refuse to apply equally to the rights of others. Equality before the law is a moral principle as well as a legal one.

Fifth, if we were fully integrated toward the goods, we would carry out our engagements with them. As our life progresses, we make commitments, such as choice of career, which preclude the pursuit of many other possibilities. If these commitments are made in view of the real good we can achieve, we will not set them aside merely because we encounter difficulties. A genuine

respect for the goods we do not choose to pursue will make us doubly dedicated to the realization of those on which we concentrate our efforts.

The teacher who is cynical about education, the corrupt politician, the careless physician, the slipshod craftsman—all show a lack of faithful dedication to what they have chosen as their own share of man's effort to achieve the goods open to us. Parents and physicians both are especially engaged in the good of human life in the helpless and dependent. Therefore, failure on their part to protect and promote this good is an abdication of responsibility that reveals an improper moral attitude.

All of the preceding ways in which concrete moral obligations take shape reveal something about the reason why human life, which is one of the basic goods, must be respected. Yet none of these forms of obligation would require an unexceptionable respect for life. Not even the parent and physician need always act to preserve and promote life, for sometimes other goods also are very pressing. A proper moral attitude is compatible with the omission of action that would realize a good, provided that omission itself is essential to realize another good (or the same generic good in another instance).

However, there is still another mode of moral obligation which binds us with greater strictness. If we had a right moral attitude, which means a truly realistic appreciation of each human good, we would never act directly against the realization of any basic good and we would never act in a way directly destructive of a realization of any of the basic goods. To act directly against a good is to subordinate that good to whatever leads us to choose such a course of action. We treat an end as if it were a mere means; we treat an aspect of the person as if it were an object of measurable and calculable worth. Yet each of the principles of practical reason is as basic as the others and each of them must be respected by us equally if we are not to narrow and foreshorten human goodness to conform to our choices.

Of course, each of the basic human goods may be inhibited or interfered with when we act for any good. But it is one thing for inhibition or interference with other goods to occur as unsought but unavoidable side-effects of an effort to pursue a good, and it is quite another thing directly to choose to inhibit or destroy a realization of a basic human good. To reluctantly accept the adverse aspects of one's action is one thing; to purposely determine ourselves to an action that is of its very character against a basic good is quite another matter.

It is only possible for us to do this insofar as a direct attack on a good can be useful to some ulterior good consequence—the end rationalizes the means. But, against utilitarian theories, I think we must maintain that the end which rationalizes the means cannot justify the means when the means in question involves turning against a good equally basic, equally an end, equally a principle of rational action as the good consequence sought to be achieved.

Here, I believe, we arrive at the reason why we consider actions which kill human beings to be generally immoral. Human life is a basic good and it is intrinsic to the person, not extrinsic as property is. To choose directly to

destroy a human life is to turn against this fundamental human good. We can make such a choice only by regarding life as a measurable value, one that can be compared to other values and calculated to be of less worth. To attempt such a rationalization is to reduce an end to the status of mere means. Whatever good is achieved by such a means could not have been chosen except by a pretense that the good of the life which is destroyed is not really an irreplaceable human possibility. Undoubtedly, it is for this reason that those who seek to justify direct abortion and other direct attacks on human life strive to deny the humanity and/or personality of the intended victims.

Two sorts of objections are likely to be raised against this conclusion. First, it will be argued that a single act of killing—for example, the single choice to abort an infant—should not be isolated from the whole context of a person's life. Second, it will be objected that almost every moral system has recognized some cases in which killing is justifiable: for example, in self defense, as capital punishment, in warfare, and, in the case of abortion, to save the mother's life. This second objection demands a careful treatment, and the next section will be devoted to it. But the first objection can be disposed of at once.

Each single act is an engagement of one's freedom, a determination of one's self by one's self. A particular choice against human life therefore has a moral significance in itself, for that choice either squares or not with a right moral orientation. Of course, one who performs an isolated immoral act is not damaged in moral character so badly as one who habitually chooses or approves such acts. But a little immorality is still immorality.

Actually, I think, those who ask us to consider the act of killing within the whole context of a person's life are assuming that "circumstances" or "other values" that are present "in the situation" will offset the disvalue of the act and so justify it. Such an argument really amounts to a covert form of utilitarianism.

Situations do not present themselves to us ready made. They take their shape and find their limits because of our interests. Once we have chosen, a situation has been finally settled. Before choice we always are able to extend our reflection so as to enlarge the situation and even to transform it by taking into account what our initial interest did not require us to notice. Moral judgments, good or bad, delimit human situations; potentially our human situation is unlimited. For this reason it is a mistake to look to the situation for the meaning of the act.

Nevertheless, Protestant situation ethics is not pointless. There are cases in which there seems to be a genuine conflict of obligations, so that one would appear unable to avoid falling into some moral evil. Undoubtedly, the number of such apparent conflict cases would be greatly reduced if all the possible courses of action were considered instead of some being excluded in advance because they would involve difficulty or hardship which we all too easily decide is "impossibility." Again, apparent conflict cases would be lessened if

we kept clearly in mind that there is no moral obligation to choose all possible goods, including incompatible ones. It is not immoral to leave some good undone providing that good is appreciated and respected and some other good is done.

Yet there remain conflict cases such as those in which most moral systems have admitted the justifiability of killing human beings. To such cases we must now turn our attention.

### The Justifiable Doing of the Deadly Deed

We have noted that Protestant situation ethics embodies as a primary orientation respect for human life, also in the unborn. My position is the same, but I have tried to explain why we must respect human life. Life is a basic good of the human person, and a primary starting point of our practical thinking is that human life is to be preserved. A right attitude depends on openness and respect for all such goods and starting points. Directly to choose to inhibit or destroy life is incompatible with such a right attitude.

Of course, the moral principle that safeguards human life derives much of its effective force from the sentiment of sympathy which most normal people feel toward others and from the fear we all experience when we consider that others might actually do to us as we at times feel like doing to them.

However, if such considerations go far to explain the force of the moral principle in many situations—and its corresponding ineffectiveness in certain cases, such as abortion—neither sympathy nor fear accounts for the logical and even the grammatical *form* of the moral norm. In form, the moral principle indicates what *ought to be* in our actions, not what *is* in our emotions. Moreover, most people recognize that the obligation to respect the lives of others extends to cases in which neither fear nor sympathy is felt as a motive; only on such a basis can we condemn as immoral the crimes of those who suffer no such humane sentiments.

We also have noticed that Protestant situation ethics, while calling for respect for human life, also agrees with the common opinion that at times it is justifiable to do the deadly deed—that is, to act in such a way that one knowingly kills another human being. But the position of situation ethics provides no satisfactory philosophic account of such cases. The Protestant moralists do offer a theological account, as we have seen, and that explanation will be plausible or not depending upon one's own religious convictions. Since we approach the whole question philosophically, we cannot and need not pass judgment on any properly theological issue.

To the extent that situation ethics rests its specific judgments on a theory of conflict of values in concrete situations, our philosophic approach might reduce this theory to covert utilitarianism, on the one hand, or to subjectivism on the other. If conflicting values are to be weighed one against another by some sort of rational calculus, then situation ethics will end in

utilitarianism—as it does for instance in Fletcher. However, if proponents of situation ethics try to avoid such weighing of values, they appeal to individual judgment itself—to conscience.

Now, it is of course true that everyone must follow his conscience in ethical questions, for “conscience” means nothing else than one’s final and best judgment as to where his true obligation lies. But conscientious judgment is notoriously fallible; some of the most horrible deeds have been done by persons who gave every evidence that they were acting in sincere good faith. For this reason one must be open minded about the correctness of his own conscientious judgment; one must try to form one’s conscience correctly—that is, in agreement with the truth.

Often, as we saw in discussing subjectivism, the need for objective moral standards is concealed by the ambiguous use of the word “decision.” Thus many proponents of situation ethics who are sensitive to the dangers and incoherence of utilitarianism mistakenly believe that they solve the problem of moral judgment by saying that conscience must responsibly decide what is right in the situation.

But if “decide” means *choose*, what is right is settled by freedom itself, and then subjectivism would be correct. If “decide” means *judge*, then either it makes no difference how one judges, or the judgment is subjective, or it requires standards which the situationists have not articulated. Their whole effort shows that they do not grant that judgment in borderline situations is a matter of moral indifference, and their ethical seriousness is completely alien to a subjectivist position. Thus objective standards seem to be essential to resolve the problem to which situation ethics has addressed its efforts.

Some of the theologians have sought to escape from this dilemma by implying or suggesting that each particular judgment is made with divine inspiration. Bonhoeffer, for example, goes so far as to say:

The man who acts in the freedom of his own most personal responsibility is precisely the man who sees his action finally committed to the guidance of God. The free deed knows itself in the end as the deed of God; the decision knows itself as guidance; the free venture knows itself as divine necessity.<sup>65</sup>

Even from a purely philosophic point of view, I believe one can argue that if God exists and if one receives direct instructions from Him concerning what ought to be done, then it would be right to follow those instructions as a matter of religious obedience, for if man cannot know “the greatest net good,” presumably God can. However, most of us, including many sincere religious believers, never have the experience of receiving direct instructions from God and would be inclined to question our own sanity if we seemed to have such an experience. For the greater part of mankind, therefore, some other solution to the problem is necessary if subjectivism is to be avoided.

Apart from Protestant situation ethics, it would appear that the only sustained effort to explain why the deadly deed is sometimes morally justified,



granted that human life is always a good to be respected, is to be found in Catholic moral theology. A classic source is Thomas Aquinas' *Summa theologiae*. I therefore turn to it to see how he justified the killing of human beings in any instances whatsoever. My interest is not in the theological aspect of Aquinas' arguments, however, but in the rational solutions he proposes to the question before us.

One kind of case in which Aquinas considers killing justifiable is in the capital punishment of those criminals who hurt others and threaten the common welfare. The argument proposed has three aspects, but it constitutes a unified whole. The incomplete is ordained to the complete, Aquinas observes, and so the part is ordained to the whole. For this reason a diseased limb may be cut off for the good of the whole. Similarly, since individuals are related to the community as part to whole, "if someone is a threat to the community and a corruption in it because of a certain offense, it is praiseworthy and healthy to kill him, that the common good be preserved."<sup>66</sup>

This argument as it stands is weak, both because individuals are not simply parts of the community and because the analogy, if pressed, might justify killing the insane, mental defectives, and other socially undesirable characters. But there are two other aspects to Aquinas' position.

In response to the argument that capital punishment should be excluded because a good end does not justify an evil means, and killing human beings is evil in itself, Aquinas further argues:

When a man sins, he alienates himself from the order of reason, and so he loses his human dignity, by which he is free and exists for his own sake, and descends, as it were, to the servile condition of brute animals, so that he is disposed of in a way useful to others . . . And so, though it is intrinsically evil to kill a man who maintains his own dignity, still it can be good to kill an offender, just as to kill a beast, for a bad man is worse and more harmful than a beast . . .<sup>67</sup>

Thus Aquinas neither holds that the end justifies the means nor that killing a man who "maintains his own dignity" can ever be good. But he thinks that evildoers in some sense abdicate their humanity.

This concept, while it has a certain plausibility, is unsatisfactory, partly because we are always unsure to what extent the offender is subjectively responsible for his acts, and thus to what extent he has abdicated his humanity. But Aquinas' argument in this aspect also is unsatisfactory insofar as it suggests that human dignity is somehow alienable, so that it is only wrong to kill a man so long as he "maintains his own dignity." If human life is really a basic good, as I argued in the previous section, I do not see how its inherent dignity can be altered by the wickedness of him whose life it is. One might as well say that an athletic achievement or an aesthetic experience or a scientific discovery loses inherent worth because the person who achieves it is immoral.

Yet Aquinas' position has one further aspect. Capital punishment of offenders, he maintains, may not be done by private persons, but only by public

authority, since only proper public officials have the responsibility for the common good.<sup>68</sup> In fulfilling their responsibility, public officials share in divine providence, and by ordering the punishment of offenders they restore the balance of justice which crime upsets.<sup>69</sup>

The trouble with this aspect of the argument is that even if we concede divine providence, we need not concede that public officials exercise their share in it properly by executing criminals. Moreover, even if we concede that the balance of justice is upset by crime, it is not evident that man is responsible for restoring the balance.

The demands of the public welfare, the restoration of justice, and the evildoer's quasi-renunciation of his right to life—these are certainly three aspects of the civilized attitude toward capital punishment. To the extent that Aquinas articulates that common attitude, the elements of his argument cohere to form a plausible whole. Yet on close examination, none of these elements is strong enough to withstand critical objections. In this matter, the increasingly prevalent conviction that capital punishment of even the worst offenders is inhumane seems more reasonable than Aquinas' defense of the institution.

For his argument is, in fact, the defense of an institution. As theological ground he cites a text from scripture: "You shall not suffer evildoers to live" (Ex 22.18). The text cited is not as important as another one *omitted*: "He who sheds man's blood, shall have his blood shed by man, for in the image of God man was made" (Gn 9.6). This text offers powerful theological support for capital punishment, but only as a penalty for murder, and thus it does not serve in Aquinas' defense of the *institution* of capital punishment, which in his day extended to a list of offenses far longer than it does in our time.

I am not saying, of course, that Aquinas accepted the current opinion uncritically. The difficulty he faced was that the principles of theological criticism—sacred scripture and tradition—seemed to support the institution of capital punishment. Therefore, he sought to draw together the intelligible aspects of the institution into an argument in defense of it.

Aquinas does not ignore elements which might have united to form a contrary position on capital punishment. He urges that clerics should not execute criminals for two reasons. First, rather than take the role of those who cause death, they should imitate Christ who suffered death. Second, the New Testament, of which clerics are ministers, does not set penalties of death and bodily mutilation.<sup>70</sup>

These considerations, if pressed further, might have led Aquinas to conclude that capital punishment, like divorce (as he views it), was a concession to man's wickedness which the law of Christ abrogated. Since Aquinas' time, that has become the almost universal Christian attitude toward the institution of slavery which, like capital punishment, was tolerated in sacred scripture although abuses connected with the basic institution were condemned.

Aquinas would have been able to defend capital punishment more plausibly had he not been keenly aware of the basic goodness of human life and the evil of its destruction. In explaining why it is wrong to kill the innocent—that is, those who are not offenders—Aquinas argues:

Any man can be considered twice: once, in himself; again, in relation to something else. Viewing man in himself, no man may rightly be killed. In everyone, even the evildoer, we ought to cherish the nature God made, which is destroyed by killing. But as I argued before, the killing of the evildoer becomes legitimate by reference to the common good, which is destroyed by the offense. But the life of the upright maintains and promotes the common good, because they are the majority of the people. Therefore, it is never allowed to kill the innocent.<sup>71</sup>

Aquinas' primary attitude toward human life, even in the evildoer, is a healthy respect. Yet he thinks that the social relationship can, as it were, transform the individual's innate dignity. Thus the argument against killing the innocent becomes somewhat utilitarian in tone. One wonders what would happen if the same conclusion were applied in a society in which the majority of people were vicious.

An incidental benefit of examining Aquinas' arguments is the light they throw on the traditional sense of "innocent"—namely, one not guilty of an offense against the common good punishable by death. The clarification apparently is needed, for even the learned members of the Anglican study-committee on abortion made the following muddled observation:

It has been argued that a choice in favour of the child—that is, to save the child at the expense of the mother's life—could be justified on the ground that the child is morally 'innocent' whereas the mother may be presumed at some time to have committed actual sin; therefore the 'innocent' life should be preferred to the 'guilty.' Such an argument would rest on a theory of morality, desert and retribution which we should not wish to maintain, and it imparts to the word 'innocent' a meaning which does not belong to it in this context.<sup>72</sup>

Again the authors declare that "words like 'innocent,' which are normally matched with other words like 'guilty' in a fully-fledged moral discourse, are questionably meaningful when used of the 'life' of the foetus."<sup>73</sup>

The principles laid down in Aquinas' defense of capital punishment are little amplified by his famous discussion of the justification of warfare. Of course, the issue here is not directly concerning killing, but concerning the conditions under which war can possibly be just. The conditions mentioned are three: first, that the war be waged by public authority (and here the domestic institution of capital punishment is mentioned); second, that the cause be just, the enemy having done a wrong deserving battle; third, that the intention of those fighting be right.<sup>74</sup>

The third condition is not mentioned in the discussion of capital punishment, but is perhaps taken for granted. Judges and executioners might be presumed to have the right intention if they execute criminals according to due legal process. Soldiers, on the other hand, at least in Aquinas' day, might easily

fight even an otherwise justifiable war out of personal motives of revenge or greed for booty.

Besides capital punishment and war, Aquinas discusses only one other type of case in which he regards the deadly deed as justifiable. This is the case of legitimate self-defense of one's own life against a present and otherwise unavoidable attack. The agent's intention, mentioned by Aquinas in his discussion of war and omitted in his treatment of capital punishment, becomes central in his response to the question: "Whether one may kill another in self-defense?"

Nothing keeps one act from having two effects, one of which is in the scope of the agent's intention while the other falls outside that scope. Now, moral actions are characterized by what is intended, not by what falls outside the scope of intention, for that is only incidental, as I explained previously.

Thus from the act of one defending himself there can be two effects: self-preservation and the killing of the attacker. Therefore, this kind of act does not have the aspect of "wrong" on the basis that one intends to save his own life, because it is only natural to everything to preserve itself in existence as best it can. Still an action beginning from a good intention can become wrong if it is not appropriate to the end intended.

Consequently, if someone uses greater force than necessary to defend his own life, that will be wrong. But if he repels the attack with measured force, the defense will not be wrong. The law permits force to be repelled with measured force by one who is attacked without offering provocation. It is not necessary to salvation that a man forego this act of measured defense in order to avoid the killing of another, since each person is more strongly bound to safeguard his own life than that of another.

But since it is wrong to take human life except for the common good by public authority, as I already explained, it is wrong for a man to *intend* to kill another man in order to defend himself. The only exception is when a person having public authority intends in the line of duty to kill another in self-defense, as when a soldier fights the enemy or a lawman fights robbers. However, even these would sin if they acted out of a private lust to kill.<sup>75</sup>

Thus Aquinas lays down the doctrine which post-reformation Catholic moralists developed into the famous principle of twofold effect.

What Aquinas is saying here really is quite simple. It would be wrong for a private person to *intend* to kill another for the sake of self-defense, because private persons never are permitted to intend to take human life. However, appropriate force may be used to repel an unprovoked attack when such a response is necessary to stave off an immediate threat to one's own life. The degree of force needed may mean that the self-defensive deed is deadly to the attacker, and Aquinas does not exclude that the deadly effect may be foreseen with practical certainty. Even so, the killing of another need not fall within the scope of the intention of one thus defending himself, and in such a case the intended measures of self-defense would not be wrong.

Those who seek to deal with moral issues by a utilitarian method are bound to have difficulty seeing Aquinas' point here. For them, only the consequences count, and so it seems perverse (and perhaps even dishonestly evasive) to make distinctions on the basis of what falls within the scope of one's intention. Of course, even from this point of view the attacker will be more likely to survive in many cases if his death is excluded from the scope of the defender's intent, since force must be applied only in a way appropriate to repel the attack, and may not be used to needlessly harm the attacker. Yet in many cases the exact same behavior would be appropriate—that is, proportioned to the attack—regardless of intent, and then to a utilitarian the distinction would seem to be a subtlety of no moral significance.

However, if, as we have concluded previously, utilitarianism is mistaken and a sounder principle of morals is the rightness of the attitude with which choices are made, then the distinction between including and excluding another's death from the scope of one's intention can be most important. For an act which of set purpose aims to be death-dealing can be related to one's moral attitude in a way quite different from an act that shapes behavior (that is in fact death-dealing) according to some other and legitimate intent.

To this distinction it often has been objected that all the foreseen effects of an intentional act are themselves intended, whether or not they are sought by the agent as his primary purpose or merely accepted by him, however reluctantly, as the necessary concomitants of the behavior by which his primary purpose is realized. However, this position is at odds with many ordinary uses of the word "intend"; moreover, it ignores the manner in which human action is formed by the unity of purpose and behavior.<sup>76</sup>

One may know that speaking will cause vibrations in the air without intending the vibrations. I realize that the drapery will fade if I close it against the sun, but I do not intend its fading. One expects pain, but normally does not intend to suffer pain, when he goes to the dentist. Those who are highly susceptible to motion sickness may foresee, without intending, a bout of illness if they take a ferry across a stormy passage. A woman who uses the "pill" as a contraceptive may be fully informed of its side effects and still take it without intending any of them.

"Intend" means more than "foresee," more even than "willingly cause." To intend something is either to aim at it as at one's precise purpose in acting or to embrace it for its positive contribution to the achievement of that purpose. A human act is not merely a performance acted out upon the stage of a pre-existing situation. No, one's interests and commitments define and organize his situation, which is more like an atmosphere carried along by the self than it is like a series of settings into and out of which the self successively moves.

The particular intentions of each of one's acts select and organize the behavior which is the embodiment by which purpose is realized and the situation progressively transformed. Many facts of our physical and biological

environments never enter into our human situations, even if we happen to know of these facts, for they can be irrelevant to our interests and commitments, or even irrelevant to any basic human good other than the intellectual curiosity that seeks them out.

Likewise, real aspects of our behavior as it ingresses upon the physical world may be only incidental to our acts, for even if the behavior is shaped by our intentions to achieve some definite transformation of our lived world—our human situation—not every aspect of the behavior will be integrated in our action. Thus we foresee effects of what we do that fall outside the scope of our intentions. When such effects are only accepted by us as incidental consequences and never ordained by us to any purpose, they seem to incur upon our world of human meaning, if they concern us at all, almost as if they arose from causes completely outside us.

That is the case, for instance, with the pain we suffer in the dentist's office, with the seasickness of a ferry-crossing, and with the side-effects of a drug. We foresee these, we even willingly cause them, at least in the sense that we bring them upon ourselves or upon others. But we "bring them upon"; we do not intend them.

It would be quite another matter if we sought or inflicted pain for the sake of masochistic or sadistic satisfaction, or if we took the ferry boat to create an alibi by our sea-sickness, or if a physician induced sea-sickness by drugs in order to increase his fees, or if an industrial saboteur included ingredients in his employer's drugs in order to bring about side-effects that would discredit the company's products.

In such cases, what previously lay outside the scope of intention has been assumed into its center. Perverse intentions shape (or better, misshape) the behavior of perverse agents whose actions fulfill and transform situations that most of us, fortunately, feel could occur only in some unreal world. Our feeling is not false. The worlds of such dehumanized persons are unreal in comparison with most imperfect, but relatively human, worlds.

Unlike Protestant situation ethics, the theory of double effect proposed by Aquinas does not depend essentially on a theological theory of a human world broken by sin. True, many acts which have double effects would never have occasion to be done in a world at peace with God and with itself. But the imperfection of creation, simply because it is finite, necessitates that the most intelligent and upright pursuit of the good entails some effects that can be brought about only incidentally, never intended for their own sake. God Himself, Aquinas believes, not only wills penalties by willing justice, to which penalties are inseparably conjoined in this broken world, but He also wills the destruction of things by willing a natural order, an unfolding of goods which—even without sin—could not come to be without the passing away of goods realized in preparatory stages but surpassed in the final order.<sup>77</sup>

Thomas Aquinas did not apply his understanding of double effect to the problem of abortion; in fact, he never stated it as a general doctrine. However,

as we have seen in tracing the history of the Catholic tradition regarding abortion in chapter four, later Catholic theologians took up Aquinas' remarks and developed them into the principle of double effect as it is now understood.<sup>78</sup> The history of the development of this principle, which has interesting applications in many problems besides those involving human life, has been traced in more detail by others.<sup>79</sup> Here it will suffice to recapitulate the principle as it is currently understood.

One may perform an act having two effects, one good and the other bad, if four conditions are fulfilled simultaneously.

1) The act must not be wrong in itself, even apart from consideration of the bad effects. (Thus one does not use the principle to deal with the good and bad effects of an act that is admittedly murder.)

2) The agent's intention must be right. (Thus if one aims precisely at death, the deadly deed cannot be justified by the principle.)

3) The evil effect must not be the means to the good effect, for then evil will fall within the scope of one's intention, and evil may not be intended even for the sake of an ulterior good purpose. (Thus it is certainly wrong to kill someone in order to inherit his wealth.)

4) There must be a proportionately grave reason for doing such an act, since there is a general obligation to avoid evil so far as possible. (Thus one may not use poison deadly to children to kill rodents in a public park.)

The last condition can easily become a field for a covert, although limited, utilitarianism. However, that is not necessary. Though human good is not calculable and though diverse modes of human good are incommensurable, the basic human goods do require protection when possible. Human life may not be destroyed frivolously or gratuitously, as in the example cited, where safer methods of achieving desirable objectives are readily available.

The four conditions of the principle of double effect can be illustrated by a relevant example in the area of our concern. If a woman suffering from invasive carcinoma of the cervix also is pregnant, treatment of the disease is likely to result in the fetus' death. Yet such treatment can be justified. For (1) the treatment would not be wrong apart from its deadly effect on the fetus; (2) neither the mother nor the physician need include the fetus' death within the scope of intention—which might be indicated by the fact that they would proceed in the same way if there were a similar problem without pregnancy and, on the other hand, would use a treatment that would save the fetus if such a method were available; (3) the fetus' death does not produce the desired cure, but is truly incidental to the procedure; and (4) the mother's life and health are of fundamental importance, and may not be able to be safeguarded in a way harmless to the fetus. If the four conditions are actually fulfilled, the deadly deed is compatible with a right moral attitude; it will not involve turning directly against the basic good of human life.

I think that the principle of double effect in this formulation is compatible with the theory of moral good and evil outlined above. That is, I do not think

that it permits what ought not to be permitted, provided it is properly understood and applied. My question is whether the principle is more restrictive than it needs to be. The third condition generally is interpreted in a way that excludes the justification of any action in which in the order of objective causality the good effect depends on the evil one. The other three conditions could be fulfilled in cases where abortion seems genuinely necessary to save the mother's life, but the third condition obviously is usually violated in such cases.

One effort to expand this condition is a reinterpretation of the principle of double effect by Peter Knauer, S.J. Knauer maintains that the good effect may objectively depend upon the evil one, which may psychologically be intended as a means, provided that the act has a *commensurate reason*. Given such a reason, the evil from a moral viewpoint is only indirectly intended, Knauer insists, and no matter what the means used may be, it cannot be intrinsically evil.

What does Knauer mean by "commensurate reason." He does not mean any serious reason whatever, nor does he mean proportionate reason in the sense explained in connection with the principle of double effect. One might suppose that Knauer is slipping into utilitarianism, but that would be to misunderstand him, for he correctly appreciates the impossibility of weighing and comparing incomparable values.

Instead, by "commensurate reason" Knauer means a value that is achieved by the act as effectively as possible. An act is evil if it is motivated by desire that unintelligently settles for a short-run, partial, or more limited realization of a value that could more effectively be attained by more rationally ordered action. Evil action, Knauer explains under Kantian influence, involves an internal inconsistency, a sort of existential contradiction. One wants a value but does not act for it in a truly realistic way.

How does Knauer distinguish ethics from any other art or technique? The difference is that other techniques have a limited domain; ethics attempts the all-inclusive rationalization of life. Negatively, any particular technique would criticize efforts to achieve specific objectives. The task of moral theology, by contrast, is to show that behavior condemned as immoral is inconsistent with the most effective realization of the value toward which it is ultimately directed.<sup>80</sup>

Knauer's effort to broaden the principle of double effect without falling into utilitarianism is interesting. He rightly points out that the "effects" in Aquinas' example of self-defense are actually distinct aspects of the act rather than effects consequent upon it. He also is sound in his insistence that the meaningful behavior which comprises a human act should not be separated into purely mental meaning and purely physical behavior. He assumes, although he does not adequately explain, a realistic theory of values such as I outlined in the previous section. Finally, his requirement for consistency in



action is a genuine moral requirement; it could be expressed as one of the modes of obligation.

However, Knauer overlooks other modes of obligation that are just as important as the one he mentions. He in particular ignores the obligation that we not turn directly against the good. This omission opens the way for his redefinition of "directly intended" in a way that bears no relation to any previous use of the expression. To support his position, Knauer also finds it necessary to claim that moral intent is completely distinct from psychological intent.

The inadequacy of Knauer's position appears most clearly if we consider that it cannot exclude a fanatical dedication to any particular genuine value. A mad scientist would find support in Knauer's theory, so long as he was an intelligent and efficient investigator, for he could defend any sort of human experimentation, no matter how horrible its effects on the subjects, provided the experimental plan promoted the attainment of truth—on the whole and in the long run—in the most effective way.

Of course, Knauer might reject this application of his theory by maintaining that the fanatical investigator would really damage the cause of scientific inquiry by giving it a bad name. Thus, on the one hand, Knauer approves abortion in some cases not permitted by the usual application of the principle of double effect, and he thinks that contraception often is only indirectly willed:

To prove that a particular act is contraceptive in the moral sense it must be shown that the act in the last analysis does not serve the end of preservation and deepening marital love, but in the long run subverts it.<sup>81</sup>

On the other hand, faced with the question of whether a woman may not rescue her children from a concentration camp by committing adultery, Knauer answers with the question:

Does life or freedom have any value if in the end one is forced to give up all human rights and in principle be exposed to every extortion?<sup>82</sup>

The answer, of course, is evasive, since the question is not regarding extortion in general, but only about a commensurate reason for adultery—not life and freedom, but the recovery of one's children from the clutches of an implacable enemy.

Knauer, interestingly enough, justifies capital punishment, not as Aquinas does, but by claiming that the death of the criminal in such a case is only indirectly intended, since there is no better way to protect the common good.<sup>83</sup> In this argument Knauer clearly goes beyond Aquinas' conception of the unintended effect, according to which the psychological meaning of intention was not made into a separate entity over against an arbitrary definition of "intention" for moral purposes. Clearly, Knauer is carrying through a revolution in principle while pretending only a clarification of traditional ideas.

Another effort to transcend the usual formulation of the principle of double effect is found in the writings of William H. Van der Marck, O.P. For Van der Marck, the behavioral aspect of human action is merely physical; its entire meaning as human arises from its "intersubjective" significance. Thus, according to this author, removing a fetus from the womb before viability "can be abortion or murder, the removal of the effects of rape, saving the life of the mother, and so on."<sup>84</sup> The intersubjective meaning is the "end"; the behavioral performance becomes mere "means." An act that is in its intersubjective meaning a form of "community" is morally good, but if it is "destructive of community" it is morally evil. To argue that a good end does not justify evil means, Van der Marck thinks, merely is a sign that cultural prejudices about the meaning of behavior are being taken for granted.<sup>85</sup>

In effect, Van der Marck's view is a form of utilitarianism, although instead of the classical hedonism, "community" is assumed as the sole end of human pursuit. Less cautiously than Knauer, Van der Marck permits any purpose of the agent to determine the moral significance of the act, the implications of the physical behavior being ignored entirely. Thus, the operation normally called "abortion" in medical circles is nonchalantly characterized by Van der Marck as that, or as "removal of the effects of rape," or as "saving the life of the mother," or as "and so on." The last characterization, since it is open-ended, seems to indicate that *any purpose* might define and justify the deadly deed, though Van der Marck does not say how far he would be willing to go.

Cornelius J. Van der Poel draws on both Knauer and Van der Marck for his essay attacking the traditional formulation of the principle of double effect. Van der Poel explicitly attacks the view that means should be distinguished from ends in a moral analysis. He holds that the means are only significant in view of the end and that it is dishonest and unfair to attribute distinct moral significance to the means elected.<sup>86</sup> Explicitly rejecting any distinction between direct and indirect killing, Van der Poel erects as an absolute "the community building or destroying aspect of the action."<sup>87</sup>

Drawing explicit conclusions about abortion, Van der Poel states:

For example, when the life of the mother certainly is threatened by the fetus, the moralist (following the community building criterion) can conclude to the taking of the life of the fetus in these circumstances. In fact, the moralist employing such a criterion cannot *a priori* exclude the possibility of taking the life of the fetus in other circumstances. I would strongly oppose abortion just for the convenience of the mother, but there might be some circumstances in which the moralist just does not know what is the community building alternative.<sup>88</sup>

Van der Poel's moralist might well find himself in a quandary, for he will be trying to carry out the calculations required by a utilitarian method while making use of an extremely fuzzy and ambiguous conception of good: community building. Classical utilitarianism, with its hedonism, sought a less high sounding but at least a more definite end in pleasure.

In sum, these recent attempts to overcome the strict limits of the principle of double effect either imply an inadequate criterion of moral good and evil—as in Knauer, who recognizes only one of the many modes of moral obligation—or they lapse into a variant of utilitarian methodology. Uniformly, it seems to me, their difficulties begin at the point at which they attempt to transcend the determinate character of a human act as means to a good sought in and through the act.

One need neither confuse the moral reality of the act with its behavioral aspect nor divide the *meaningfulness* of the behavior from the *enactment* of the purpose to observe that human acts sometimes are means to ends extrinsic to themselves: for example, the work of a person who is only interested in pay. If the work is that of a gunman who will kill anyone for a price, then the psychological intention by which he sets himself directly against human life is morally significant, for this intention orients the self in a manner that is incompatible with openness to the basic good of human life and respect for it. Whatever his ulterior purpose might be, his acts are morally evil, for one basic human good is treated as expendable for the sake of another (or of the same in another realization). Knauer is mistaken in permitting each value to become an absolute; Van der Marck and Van der Poel are more seriously mistaken in regarding the actual effects on community—which are only partly knowable and are immeasurable in principle—as a moral criterion.

Nevertheless, it seems to me that the principle of double effect in its modern formulation is too restrictive insofar as it demands that even in the order of physical causality the evil aspect of the act not precede the good. The critics are right, I believe, in their insistence that the behavioral aspect of the act is not morally determinate apart from the meaning that shapes the human act. In this respect, Aquinas' formulation seems to me to have been more accurate, for he did not make an issue of which effect (aspect of the act) is prior in physical causality, but he did insist that when a single human act has a good and a bad aspect the latter could not rightly fall within the scope of intention, even as a means to a good end.

From the point of view of human moral activity, the initiation of an indivisible process through one's own causality renders all that is involved in that process equally immediate. So long as no other human act intervenes or could intervene, the meaning (intention) of the behavior which initiates such a process is no less immediate to what is, from the point of view of physical causality, a proximate effect or a secondary or remote consequence. For on the hypothesis that no other human act intervenes or could intervene, the moral agent who posits a natural cause *simultaneously* (morally speaking) posits its foreseen effects. The fact that not everything in the behavior which is relevant to basic human goods equally affects the agent's moral standing arises not from the diverse physical dispositions of the elements of the behavioral aspect of the act, but from the diverse dispositions of the agent's intention with regard to the intelligible aspects of the act.

But it is the intelligible aspects of the indivisible human act that count, not purposes sought and values hoped for in ulterior human acts, whether of the agent himself or of another. For otherwise the end will justify the means, and some sort of utilitarianism or inadequate consistency-criterion will replace the true standard of moral value.

Moreover, even if the particular process initiated by one's behavior is in fact indivisible, he obviously does not escape full moral responsibility for significant aspects of it that could have been avoided by the choice of an alternative behavior having the same determining intention but a diverse mode of accomplishment. Then too, if the unity of the process is merely *de facto*, arising from the agent's failure to divide and limit his behavior, then the act is not truly indivisible and the determining intention will not exclude moral responsibility for aspects of the act that could have been excluded, but were not.

This theoretical formulation will be considerably clarified by application to some examples. Obviously, cases generally approved by application of the principle of double effect as it is conventionally formulated also will be approved if the modification I am suggesting is correct, since the modification broadens the strict condition about the order of the effects as it is usually expressed. For this reason, we need not review many examples usually used to illustrate the principle, but we must consider some where the proposed modification leads to a result different from the usual formulation. Also, it will be worth noting how the proposed modification would deal more restrictively with some of the types of cases mentioned by critics of the traditional principle.

#### Applications of the Principle

The modified principle of double effect would not justify committing adultery to save one's children from a concentration camp, because the saving effect would not be present in the adulterous act, but in a subsequent human act—that of the person who releases them. Therefore, adultery is intended as a means to an ulterior good end. On the other hand, a mother who saves her child by purposely interposing her body as a shield against an attacking animal is justified, since the very performance which is self-destructive also is protective.

Transplantation of organs which deprives the donor of life or health cannot be justified, because the good effect to the recipient is in a subsequent human act, at least potentially. That is, although the surgical procedures form a continuous whole and can be chosen in a single human act, the two phases of the operation are not necessarily united and the first can be chosen without the second—as is evident since the surgeon may decide not to carry out the implant after the organ has been removed from the donor. If transplantation of organs does not deprive the donor of life and health, it is not contrary to

this basic good and so may be justified as an act of giving, just as is the case in blood donations.

I have argued elsewhere that contraception is wrong because it involves an attack upon human life in its beginning.<sup>89</sup> Without rearguing that position here, I want to point out that if it is correct, the contraceptive act cannot be justified by marital love. For the choice of contraception and the choice of intercourse constitute two quite distinct human acts—as is evident in the case of those who use the pill—and the processes remain distinguishable even for those who use a method connected with the sex act and habitually choose both together. Clearly the contraceptive act itself is not directly conducive to anything except the prevention of the beginning of life. Marital love, on the other hand, may be fostered by intercourse, but the good effect which the contraceptive act makes possible cannot be the sole determining intention of an act in which it is itself not present.

A case that Catholic moral theologians who have attacked the restrictive principle of double effect never seem to consider is why it would be wrong to deny one's faith in time of persecution. On utilitarian grounds, of course, one could not rule this out, and I do not see how those who take views like Knauer's or Van der Marck's could exclude it either. Assuming, however, that the denial of one's faith violates basic human goods, such as religion and theoretical truth, martyrdom is a moral obligation that may not be avoided for the good effect—saving life—since that is only accomplished by preventing another, distinct human act. In other words, the persecutor's act, not the martyr's, takes life or does not take it; therefore, the victim of persecution cannot avoid intending the denial of faith precisely as such.

Aquinas' discussion of self-defense clearly fits under the principle of double effect according to my understanding of it. The common formulation of the requirement that the evil effect may not be a means to the good one led to difficulty in understanding Aquinas' argument. For often the person who kills in self-defense does a deed which from a physical point of view is directly deadly and only succeeds as a self-defense by its effectiveness in killing the attacker. For example, a storekeeper attacked by an armed hold-up man does not defend himself adequately by aiming at a limb, but at the head or heart, for only a death-dealing shot will certainly prevent the robber from shooting back.

Thus many Catholic moralists came to accept the view that in self-defense direct killing is permissible; they denied the applicability of the principle of double effect in the precise case for which it was first articulated. If the other requirements of the principle of double effect are met, the position I am proposing is compatible with viewing the storekeeper's act as a killing not intended by him, because the various aspects of the outward act are indivisible (assuming, of course, that the storekeeper cannot otherwise defend himself).

In examining Aquinas' arguments regarding capital punishment and warfare, I have argued that his attempt to justify killing for the common good is

not sound. I do not see how it can be right ever to set oneself directly against any human being's life, whatever the ulterior good, even if it be the good of the entire community. Can the deadly deeds involved in capital punishment and warfare to some extent be justified as unintended killing? This is a large question, and I can only make a few provisional remarks in response to it here.

Capital punishment, at least as it presently exists in countries such as the United States, seems to me unjustifiable. The argument that it prevents the criminal from committing future crimes and that it deters others from crime—even if correct in fact—is ethically invalid, because the good is achieved in other human acts, not in the execution itself. Banishment and imprisonment, by which offenders against the social good are prevented from sharing in it and restrained from harming it further, are justifiable incursions upon the criminal's liberty. A form of capital punishment sometimes used in the past, by which a criminal was banished and his life declared forfeit if he returned, could have been justified on the supposition that the return of someone subjected to such a sentence expressed his renewed involvement in wrong-doing, against the immediate threat of which only a death-dealing act would be effective protection.

One might argue that capital punishment is justified by virtue of the fact that in the execution itself not only is a man killed but the basic good of justice also is vindicated. Certainly, this view of the matter has influenced thinking in the past, as is evidenced by such phrases as "paying for his crime with his life," "life for life," "paid his debt to society," and "evening the score" (which was made uneven by the "cheating" involved in the crime). However, I think this argument involves a basic confusion.

The demand for restitution, to the extent possible, is a sound requirement of justice. But killing the criminal in no way compensates for the real evil he has done. A murderer's victim does not rise from the dead when the execution is carried out. Harming, hurting and killing offenders does not restore the goods of which they have unjustly deprived their victims. It would be far more just if a murderer were forced to spend his life working as productively as possible, the fruit of his effort being given to the dependents of the victim or to society at large, if there are no dependents.

Warfare, also, I think, can be justified only to the very limited extent to which the killing involved can be done without directly turning against the good of human life, a good no less basic and inviolable when the lives destroyed happen to be those of enemies who are really engaged in unjust activities. When force is used unjustly, and if there is no other way to stop the injustice, proportionate force to limit the injustice and exact reasonable restitution may be justified.

In saying "when force is used unjustly" I mean not only an active exercise of power to do or to obtain something unjustly, but also the use of power maintained in readiness to support an unjust status quo. In saying "used" I mean to include all of the steps of preparation for use—e.g., the construction

of weapons or military installations that are surely directed to unjust use. By the condition, "there is no other way to stop the injustice," I mean that there is no method of reason or persuasion and no commonly recognized higher authority to which to appeal. Obviously the requirements of the principle of double effect regarding intention, proportionality, and the avoidance of acts already wrong apart from a consideration of the bad effect must be maintained.

To indicate briefly some of the implications of my theory for contemporary military policy, I will deal with a limited group of issues. I will not try to take into account problems raised by the bearing of acts of war on goods other than human life—e.g., truth, property, and personal integration. Nor will I attempt to discuss fully the objections to my theory that will be raised by its political implications. Suffice to say that if modern war cannot be fought morally, it cannot be justified by the horrible consequences to the just of the acts of those who are willing to proceed immorally. The acceptance of the incoherent ethics of utilitarianism in this matter, I am convinced, more than anything else has undermined contemporary moral attitudes and given foundation for youthful cynicism about the moral sincerity of public authority.

To begin with, then, justifiable acts of war may be directed only against the means of unjust force. War cannot justly be fought if unconditional surrender is demanded, or if the purpose is to overcome erroneous ideas and evil practices that are not implemented by unjust force, or if the enemy society becomes the target of total warfare and noncombatants are attacked.

Acts of torture, terror, and reprisal cannot be justified, because these intentionally attack the lives or well being of persons in order to achieve good effects only in distinct, ulterior human acts—namely acts of the enemy. The use of power to "break the will of the enemy" is unjustified unless that phrase means nothing more than destroying his military capability.

Actions in which violence is done to enemy military personnel are justifiable only to the extent that they are participating or about to participate in the unjust application of force (the military operation) and only if the violence done to them will contribute to impeding the enemy's military operation. One can shoot straight at an enemy soldier on a battlefield (assuming all other requirements of a just war are met) intending to lessen the enemy force by one gun and only indirectly killing a man (just as in self-defense). A military camp, also a training camp, or a factory contributing materially to the war effort could be bombed. But a hospital may not be bombed. Enemy soldiers may not be killed if they can be inactivated without killing them, for instance by wounding or capturing them. Once captured, a prisoner's life must be respected.

Applying this approach to World War II, I think one can say it could have been fought justly by the allies. The demand for unconditional surrender should not have been made. Strategic bombing, which was in actuality a reprisal and terror tactic often indiscriminate about military targets, should never have been carried on. Many particular acts of terror, torture, attacks on

noncombatants, mistreatment of prisoners, and wanton property destruction in occupied areas should have been avoided. Such limitations would not necessarily have hindered allied military effectiveness.

The war in Vietnam poses many problems from an ethical point of view. Is the enemy, in the first place, really engaged in an unjust use of force? Is the American objective limited to countering this unjust force? Is there any hope of success (without which the war is pointless and therefore the evil effects of acts of war lacking proportionate reason)? Were all other solutions tried and found ineffective?

However, more clear than all these questions, which have been debated endlessly in recent years, is the central cause of American frustration. Legitimate military targets to which force can be applied are hard to find and the elusive enemy power seems practically inexhaustible. Therefore, military power has been directed against other objectives, with the hope of gaining indirect military advantages. Thus there have been all sorts of reported acts of terror, torture, reprisal, indiscriminate bombing, mistreatment of prisoners, attacks on civilians suspected of conspiracy, and so forth. Announcements of body counts and briefings about kill-rates suggest that the maximum destruction of enemy life is intended as a means to the ulterior good of gaining a better negotiating position.

In contrast to the Vietnam war, the Cuban missile crisis exemplifies a situation in which military force was applied proportionately, by means of the blockade, to obstruct what America considered unjust military force in preparation (the missile sites). If a ship reasonably believed to be contributing to the enemy military preparation had tried to run the blockade, it could justly have been sunk with the attendant loss of life as an unintended side effect. Similarly, if work on the missile sites had not been halted, those sites could morally have been bombed in as precise and life-sparing a manner as possible. On the other hand, it would have been unjustifiable to use the missile crisis as an occasion to invade Cuba in an effort to "liberate" it, for that purpose would have gone beyond the unjust force that was to be countered.

Perhaps the most important example of the application of ethics to modern warfare regards the nuclear deterrent strategy—the "balance of terror." I do not think it is correct to raise this question in terms of the morality of the nuclear weapons, for it is acts, not objects, that are morally good or bad. Conceivably nuclear weapons might have some legitimate use—e.g., to destroy a deeply buried enemy military headquarters.

However, the deterrent strategy precisely involves the threat to destroy without discrimination, and even to destroy declaredly non-military targets. The *last stage* of a nuclear exchange would be entirely without militarily advantageous effects. Yet it is only the willingness, readiness, and serious intent to do the last act that makes the threat effective.<sup>90</sup> Such an act, when it is done, clearly will be immoral. We attempt to justify our present readiness to do it by the effect of this readiness in a quite different act, the choice of a



potential enemy. Therefore, our present readiness to do what is immoral cannot find justification as if the destruction of life were beyond the scope of our intention. For this reason, I believe, the deterrent strategy is immoral and should be abandoned by both sides.

There might be an alternative, purely counter-force deterrent, that could be morally justified. The immorality of the present deterrent is not that it deters potential unjust uses of force, but that it does so by readiness to obliterate non-military objectives. Yet I doubt that a purely counter-force strategy could be militarily effective.

This conclusion, of course, raises the objection that renunciation of the deterrent by one nation would mean surrender to those willing to proceed immorally. If the United States were to renounce the deterrent, the Soviet Union presumably would hold worldwide political dominance, backed by its military power, which would be used without regard for morality. Now, I am not sanguine about Communist ideology and what its global political triumph would mean for mankind. Very likely its success would radically alter the Communist system, but the alteration would not occur immediately, and the western democratic effort toward freedom and justice would suffer a considerable setback.

Still, nuclear weapons, now in existence, will never go away. As decades pass, more and more countries will acquire significant nuclear forces. Eventual world political unity is obviously necessary. It is unlikely to be achieved in the near future by common consent. Those who apply to the deterrent a utilitarian argument from "necessity" should consider the likelihood that a large-scale nuclear war will be fought sooner or later, with vast destruction and loss of life, and with an extremely unsatisfactory post-war political situation and moral environment.

If it is hard for us to accept the immorality of the deterrent strategy, perhaps the point will be clearer to the survivors of nuclear war that it was unreasonable to risk mutual annihilation decade after decade while hoping for an eventual global political organization with sufficient authority to make national military forces unnecessary. The risk of nuclear war in any given year, even in any given decade, may not be great; the cumulative risk certainly is substantial. Moreover, tremendous wealth that could be applied to other urgent needs is used to maintain the deterrent force, which will only "succeed" if it is never used.

It is worth noting that many who would wish to treat capital punishment and warfare in a manner more traditional than I propose would agree that the nuclear deterrent strategy cannot be justified.<sup>91</sup> The argument for deterrence is utilitarian; many utilitarians and others reject it. All who reject it should grapple with the political implications of their ethical position; to fail to face these implications seems to evidence a lack of seriousness about the moral issues.

My purpose in discussing self-defense, capital punishment, and war has not been to treat these problems fully and adequately as they deserve. Rather, I needed to show that the principle of double effect, reformed as I have suggested, can accommodate certain morally accepted deadly deeds (while rejecting others that can be rejected plausibly) without yielding the principle that it is never morally right to act directly against the basic good of human life. When I come to apply these ethical principles to abortion, the theory will apply consistently. Thus the objection that human life is not absolute, that its inviolability admits of exceptions, will be adequately met. For the inviolability of life against any *directly intended* attack remains absolute according to the present theory.

According to the present theory, then, in which cases would it be permissible to do the deadly deed involving the unborn? We must bear in mind from the previous argument that they must be treated as persons whose lives are inviolable to any direct attack. The question therefore becomes a matter of trying to apply the revised version of the principle of double effect to these cases.

In the chapter on medical aspects, we saw that there are relatively few cases in which the life or physical health of the mother seems to require abortion. Two types of cases of this sort are those involving ectopic pregnancy (implantation of the embryo outside the uterus) and certain cases involving impaired heart and/or kidney function.<sup>92</sup>

Ectopic pregnancy, we have seen in dealing with religious aspects, has been dealt with by Catholic moralists by the argument that the condition itself is pathological, and that the pathology, even apart from the developing embryo, presents a threat to the mother. It must be removed, and in the process the embryo is incidentally removed.<sup>93</sup>

Assuming the soundness of the position, I think a simpler justification is possible. This justification will also apply to abortions previously considered direct having strict medical indications such as those mentioned involving impaired heart and/or kidney function.

The justification is simply that the very same act, indivisible as to its behavioral process, has both the good effect of protecting human life and the bad effect of destroying it. The fact that the good effect is subsequent in time and in physical process to the evil one is irrelevant, because the entire process is indivisible by human choice and hence all aspects of it are equally present to the agent at the moment he makes his choice.

It will be helpful, perhaps, in gaining acceptance for this view—although it is not theoretically essential to the argument—if we note that it is not precisely the infant's death that benefits the mother but its removal from her. From this point of view, even if the abortion were intended (which I do not think it has to be), the killing of the infant would not have to be intended. The distinction is clearly illustrated if we imagine a probable future development—an artificial womb. Embryos aborted in such cases could

conceivably be saved and brought to birth by such a device. Thus, the very meaning of *abortion* need not be *feticide*, for even if the two cannot now be separated in fact, they could be, and what could be separate in fact obviously cannot be identical in meaning.

If the threat to the mother's life or health can be obviated without the removal of the unborn child, then the aspects of the human act which involves abortion are, in fact, separable. In such a case one cannot argue that the alternative to abortion is difficult, inconvenient, and costly. For that is to make these factors of cost equal in value to the dignity of human life. If one does not take an alternative in which the good effect is achieved without the deadly deed, then killing falls within the scope of one's intention.

What if there is no alternative to abortion, in some sort of case, if the mother's health is to be protected, although the risk to her does not involve the probability of accelerated death? In principle, if the good effect is attained in and through the same indivisible process which is initiated by the abortifacient procedure, then the abortion need not be intended. However, one does not sacrifice life for health, since the latter is only a partial aspect of the former.

To subordinate life to health is something I could not do in my own case—I would never be healthier dead. Nor can one reasonably prefer health to life, the part of life (health) to the whole of life. To act on such a preference involving another's life and my health indicates that it is not the basic human good itself, but a particular realization of it, that concerns me. This is a limiting attitude, not compatible with moral uprightness.

This conclusion that abortion is not morally permitted when only health is at stake also applies to the entire area of the psychiatric indication. Moreover, the good effects presumably justifying such cases of abortion are not achieved through a physical process that is unified and morally indivisible, but rather in ulterior effects of distinct human acts.

For this reason, even if a threat of suicide is serious and abortion would prevent it (something hardly likely as we saw in chapter three),<sup>94</sup> abortion would not be justified in such a case. The good effect would be achieved only by preventing another act, and the abortion itself would be a means, intentionally chosen, to this ulterior end.

In times past complications of delivery raised serious problems. Now where medical facilities are available such difficulties are rare, most difficult cases being prevented by timely surgery. However, if it were impossible to prevent the mother's death (or, worse, the death of both) except by cutting up and removing the child piecemeal, it seems to me that this death-dealing deed could be done without the killing itself coming within the scope of intention. The very deed which deals death also (by hypothesis) initiates a unified and humanly indivisible physical process which saves life. But if it is possible to save the mother without the death-dealing deed, then the intent to kill would enter the agent's act as its determining meaning.

The attempt to justify abortion in cases involving prospective birth defects obviously is unsatisfactory. If the goods sought are in others, then the deadly deed does not itself achieve them, and it becomes an intended means to an ulterior end. On the other hand, if life is a human good, even a defective life is better than no life at all—some value is better than no value. In any case, defects cannot touch many central values of the human person, as we saw earlier in this chapter. The real reasons underlying this “indication” are utilitarian—the supposition that an infant is like a product, and that imperfect specimens should be scrapped.

A sound appraisal of the moral significance of abortion as a method of eliminating the defective was given by Martin Ginsberg, a New York state Assemblyman, in the 1969 New York legislative debate. The proposed bill would have permitted abortion

when there is medical evidence of a substantial risk that the foetus, if born, would be so grossly malformed, or would have such serious physical or mental abnormalities, as to be permanently incapable of caring for himself.

Mr. Ginsberg, a thirty-eight-year-old lawyer who was crippled by polio at the age of thirteen months, walks only with difficulty, using metal crutches and leg braces.

He began his speech by mentioning a number of persons who achieved greatness despite handicaps—Toulouse Lautrec, Alec Templeton, Charles Steinmetz, Lord Byron, and Helen Keller. Then he went on:

What this bill says is that those who are malformed or abnormal have no reason to be part of our society. If we are prepared to say that a life should not come into this world malformed or abnormal, then tomorrow we should be prepared to say that a life already in this world which becomes malformed or abnormal should not be permitted to live.

Ginsberg, who did not oppose abortion law relaxation in general, was given a standing ovation by the Assembly.

The bill's sponsor, Albert H. Blumenthal, attacked Ginsberg, accusing him of telling women they could not protect themselves from harm:

That's what you're telling my wife, Marty. You're telling her she has no right to protect herself from harm. You don't have that right, Marty. Nobody gave you that right. Not God. Not man.

However, Blumenthal did not explain how eliminating possible defective children would protect mothers from harm. Although before the debate there were six votes more than the number needed for passage pledged in favor of the bill, the *New York Times*, which has promoted abortion law relaxation for years, was forced to headline: “Assembly Blocks Abortion Reform in Sudden Switch—14 Legislators Pledged to Bill Defect After Polio Victim Urges Defeat.”<sup>95</sup>

Abortion used as a form of birth prevention—whether in cases of illegitimate children, or in cases of economic hardship, or in cases of simple reluc-

tance to have a child—clearly cannot be justified. Here the whole point of the operation is to get rid of the baby, to end its life, because its continued existence is simply rejected. This is not to say that in some such cases there is not a genuinely good ulterior motive—e.g., avoiding future hardship for already existing children in an impoverished family. However, these good motives—while they may well win our sympathy and deserve our compassion—do not ethically justify the abortifacient procedure, for it achieves none of these goods. They are present only in future human actions.

Moreover, the goods sought in all such cases are achievable otherwise. The unmarried girl should be helped and arrangements made for the child's care, whether or not she wishes to bring it up. The problems of poverty and social stress would yield to our compassion if it were real and active enough, not merely a weak sympathy. Those who do not want children need not conceive them; they do so by their own free acts.

But what about the rare case in which a woman is raped and conceives a child of her attacker? She has not had a choice; the child has come to be through no act of hers. Moreover, it is not clear that her precise concern is to kill the child. She simply does not wish to bear it. If the artificial uterus were available, she might be happy to have the baby removed and placed in such a device, later to be born and cared for as any infant that becomes a social charge. Now, clearly, one could not object if that were done. May the death of the child that is in fact brought about by aborting it actually be unintended in this case? I believe that the answer must be yes.

But this answer does not mean that abortion in such a case would be ethically right. I fail to see what basic human good is achieved if the developing baby is aborted. The victim of rape has been violated and has a good reason to resent it. Yet the unborn infant is not the attacker. It is hers as much as his. She does not wish to bear it—an understandable emotional reaction. But really at stake is only such trouble, risk and inconvenience as is attendant on any pregnancy. To kill the baby for the sake of such goods reveals an attitude toward human life that is not in keeping with its inherently immeasurable dignity. One of the simpler modes of obligation is violated—that which requires us to do good to another when we can and there is no serious reason not to do it.

Even psychologically, I doubt the wisdom of a woman who has been raped disposing of a child conceived of the attack. Her problem is largely to accept herself, to realize that she is not inherently tainted and damaged by her unfortunate experience. The unborn child is partly hers, and she must accept herself in it if she is really to overcome her sense of self-rejection. To get rid of the child is to evade this issue, not to solve it. A woman who uses such an evasion may feel temporary relief but may be permanently blocked from achieving the peace with herself she seeks.

Incest presents no special problem. Clearly here abortion is a method of disposing of an unwanted baby. I see no reason why incest often is coupled

with rape in discussions of abortion, except for the fact that both arouse in most people an emotion of revulsion which proponents of abortion seek to divert from parties who are guilty to individuals who are innocent—the nameless unborn.

If abortion is justified, then it should be performed in a way that gives the child a chance of survival, if there is any chance at all. The effort to save the aborted child and to find ways of saving all who are justifiably aborted would be a token of sincerity that the death of the child really was not in the scope of the intention.

If abortion is intended, how it is done is ethically irrelevant except to the extent that some methods might unnecessarily endanger the mother as well. Certainly, abortion is no less immoral if it is done with an abortion pill near the beginning of pregnancy than if it is done with a curette later on, or by delivering the child at or after viability and putting it down an incinerator, as has happened in England under the new abortion law.

One might wonder about the moral status of birth control methods that are probably or possibly abortifacient, as we saw in the latter part of chapter three is the case with the IUD and the "pill."<sup>96</sup> If one recognizes that human life is at stake if these methods do indeed work in an abortifacient manner, then it is clear that the willingness to use them is a willingness to kill human beings directly. The effect of killing the already conceived individual, if it occurs, is no accident, but the precise thing sought in committing oneself to birth prevention. *If one is willing to get a desired result by killing, and does not know whether he is killing or not, he might as well know that he is killing*, for he is willing to accept that as the meaning of his act. Everyone who knows the facts and who prescribes or uses birth control methods that might be abortifacient is an abortionist at heart.

The judgment may be seen more clearly by considering it from the point of view of someone who sincerely believes conception-prevention to be legitimate and any interference after conception to be unjustifiably killing a person. On these assumptions, it clearly is insufficient to know that a given method prevents *births*; such a person would be willing to prevent conception but absolutely unwilling to interfere once conception had occurred. The abortifacient character of a technique, even if certainly known to occur in only a small percentage of cases, could not be viewed as incidental to the intended conception prevention, since in those cases there would be no conception prevention. Nor could the abortions which might occur be outside the scope of the intention defined as *birth prevention*, since if conception were not prevented, the only meaning of "birth prevention" would be *abortion*. Uncertainty about a method's mode of action would perhaps be tolerable if the uncertainty regarded side effects. However, here the uncertainty is concerned with the very meaning of the *intended* birth prevention: whether it is conception prevention or abortion.

It is often said that one should not becloud the ethical issues regarding abortion by referring to it as *murder*. Certainly the word has a legal sense, and it would prejudice the jurisprudential discussion of abortion in the next chapter to classify abortion with the crime of murder. On the other hand, "murder" also has an ethical sense: it is the wrongful and purposeful taking of human life. It would be question-begging to call abortion "murder" before examining its morality. Now that we have completed such an examination, however, it is accurate and appropriate to say that abortion, whenever it involves the direct attack on human life (which is almost always) is *murder*. To reject this classification of the act is itself a merely emotional reaction, an attempt to sanctify evil by removing its bad name.

To say this, however, is not to assert that everyone who has an abortion or who performs an abortion incurs the full moral responsibility for murder. Many who do the evil deed do not know, or do not fully appreciate, what they do—this is true of all murder, not only of abortion. Some act through fear, through anxiety, through shame. They are less guilty than those who act through cool and brutal calculation, such as a utilitarian, if he were true to his principles, should applaud. Still, if one's lack of appreciation of what the deadly deed really means or if one's weakness to resist is a product of one's own habit of treating the good of life lightly or of one's unwillingness to see and feel the wrong one does, then responsibility is not lessened, but increased.

Granting that someone has done his best to see what is right and to be ready to do the right as he sees it, he is of course free of moral guilt. In this sense, one who follows steadfastly the direction of a firm and honest conscience is doing as he ought. Still, conscience must be shaped according to ethical truth. A sincere conscience can be mistaken, and such a mistake does not make the deed good, although it does not make the doer guilty.

Roman Catholic readers may notice that my conclusions about abortion diverge from common theological teachings, and also diverge from the official teaching of the Church as it was laid down by the Holy Office in the nineteenth century. I am aware of the divergence, but would point out that my theory is consonant with the more important and more formally definite teaching that direct killing of the unborn is wrong. I reach conclusions that are not traditional by broadening the meaning of "unintended" in a revision of the principle of double effect, not by accepting the rightness of direct killing or the violability of unborn life because of any ulterior purpose or indication.

Most important, I cannot as a philosopher limit my conclusions by theological principles. However, I can as a Catholic propose my philosophic conclusions as suggestions for consideration in the light of faith, while not proposing anything contrary to the Church's teaching as a practical norm of conduct for my fellow believers. Those who really believe that there exists on this earth a community whose leaders are appointed and continuously assisted by God to guide those who accept their authority safely through time to eternity would be foolish to direct their lives by some frail fabrication of mere reason instead

of by conforming to a guidance system designed and maintained by divine wisdom.

I do not doubt that the survivors of a nuclear holocaust, when they look back upon our time, will clearly discern a common thread uniting our deterrent strategy, our increasing resort to violence in place of orderly civil process, and our relaxed attitude toward the killing of the unborn. If we want freedom and progress together with law and order, we must begin by recommitting ourselves to the basic good of human life, a good that is fundamental to all the others. If we do not respect human life, what human good will we any longer respect?