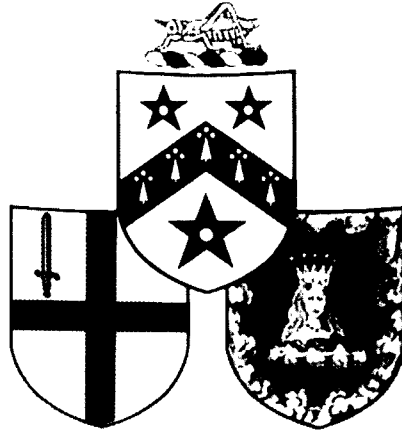


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**NEGOTIATING THE ETHICAL MINEFIELD**

Lecture 5

**THE POLITICS OF ABORTION**

by

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## Negotiating the Ethical Minefield

### V

#### The Politics of Abortion

The trouble with life is that we understand it backwards, but have to live it forwards. That, at any rate, is what Kierkegaard thought, and I agree. You keep moving through life (there is no way to stop the flow) trying to figure it out as you go along, living experimentally, trying out different attitudes and theories, changing your mind, reversing yourself sometimes, sometimes coming back to where you were at the beginning. In my own case, for example, one of my major conflicts has been over the kind of people I have found myself admiring. For most boys, physical courage is an important and admirable value. Boys of my generation were brought up on adventure stories about situations that called for great courage in the hero. Since I went to the pictures more enthusiastically than I went to school, I imbibed the great myth in the classic Western film of the lonely hero riding into town, defending it against the local bad guys, a few of whom he reluctantly but professionally kills, with little help from the townsfolk, before riding off into the sunset.

Physical courage still seems to me to be an admirable virtue. That is why I continue to admire boxers, though I am increasingly ambivalent about the morality of boxing. Most of us fear and try to avoid pain; it makes us physical cowards, people who submit to an other's strength, because we are afraid that if we challenge it we'll be hurt. Boxers train themselves to accept the pain, to endure the constant hurt. There is a famous photograph of Barry McGuigan, the Irish boxer, on the stool before the last round of the fight in which he lost his world title. He has that deep, black, faraway look in the eyes of someone who is enduring unbelievable pain long, long after the normal, cowardly person, would have given in. I admire the same virtue in soldiers who train themselves to face death. I even find myself admiring mercenaries, the wild geese among men, who sell their courage to those who will pay for it. That is why I love A.E.Housman's *Epitaph on an Army of Mercenaries*.

*These, in the days when heaven was falling,  
The hour when earth's foundations fled,  
Followed their mercenary calling,  
And took their wages and are dead.*

*Their shoulders held the sky suspended;  
They stood, and earth's foundations stay;  
What God abandoned, these defended,  
And saved the sum of things for pay.*

Sometimes an account of courage unto death can bring tears to the eyes, as the story of Haing Ngor did to mine recently. He was the actor who survived the Khmer Rouge in Cambodia, escaped to the USA and then appeared in *The Killing Fields*, the magnificent film that was made about that horrifying episode in twentieth century history. During the terror in Cambodia his wife, pregnant with their child, had died in prison and the only thing of hers he possessed was her photograph, which he kept in a gold locket round his neck. Some time ago he was held up by a street gang in Los Angeles and shot, because he refused to hand the locket over to them. That is a story of powerful love, as well as enormous courage, the refusal to give up the only reminder of the great passion of a brave man's life.

My dilemma as a young man was that I continued to admire and fantasise about men of courage, and the violence they perpetrated and endured, long after I had committed myself to a contrary way, the way of peace and non-violence, the way of Jesus. This was before I had really discovered the intense physical and political courage of Jesus, so I was caught between a heroic and a religious understanding of life; and only now am I beginning to see that this is a false dilemma. I was enormously attracted to the heroic, Homeric approach to life of men of courage and passion "*who sang the sun in flight*", in Dylan Thomas' words, men who ate and drank and fought and made love and died bravely. They mourned the brevity of their lives, but refused to compromise their heroic virtue in order to prolong it. I continued to admire these types of men long after I had put on the cassock and embraced the kind of religion that Nietzsche dismissed as weak and world-denying, because it seemed to fight against the heroic

virtues and imposed a discipline that denied the life force in men. The dilemma that increasingly tormented me was not so much personal as philosophical. It is true that I found it difficult to deny my appetites and sublimate them into spirituality and service of others, but I now see that the conflict was there at the theoretical level as well. Did I actually believe that a world purged of the need for the heroic virtues, supposing it could be achieved, would be a better world? In a world where the lion lay down with the lamb, what would have happened to the fierce glory of the lion's nature? In a world purged of conflict and danger, what would become of the virtue of courage and that heart stopping bravery that defies death itself? My admiration for these virtues saw them as good, as worthy of my admiration, approval and imitation, even though they appeared to be in conflict with the system I had embraced.

Now I know that it is that little word system that causes the trouble. A system is a unified view of life, an artificial harmonisation, an attempt, always violent, whether physical, intellectual or both, to impose order upon chaos. People of the Bible have been taught to fear chaos. The word suggests to us riot, confusion, and disorder. Interestingly, that is not at all its original sense. It is a Greek word that means void, emptiness, abyss. It is out of this abyss of nothingness that God brings creation, according to the first chapter of Genesis. *"And the earth was waste and void; and darkness was upon the face of the deep: and the spirit of God moved upon the face of the waters"*. God brings profusion out of emptiness, the extravagance of creation out of the barrenness of chaos; but we seem to have a passion for reverting the process and restoring an ordered void; we want to impose system upon the prodigal variety of actual life, force it on to the Procrustean bed of a single template. One of the ways we do this is in our constant search for a unified value system. We do it in all sorts of other ways, of course. When we had an empire we imposed the template of our culture on the very different traditions we found in Africa, Asia, Australasia and the Americas. This has been particularly true of some Western versions of Christianity, which have believed that all other religions are false and lead to damnation. Even within our own moral culture we try to impose system and order, because something in us fears the void.

I understand now that my confusion in struggling between the Homeric and the Christian attitudes to life was not because it was a choice between right and wrong, good and bad, but because it was a choice between incommensurable or irreconcilable goods. To recognise this is finally to understand the fundamentally tragic nature of many of our choices, even of life itself. The thinker who confronted this reality with the greatest courage and clarity was Isaiah Berlin. He wrote:

*"If we are not armed with an a priori guarantee of the proposition that a total harmony of true values is somewhere to be found, we must fall back on the ordinary resources of empirical observation and ordinary human knowledge. And these certainly give us no warrant for supposing that all good things, or all bad things for that matter, are reconcilable with each other. The world that we encounter in ordinary experience is one in which we are faced with choices between ends equally ultimate, and claims equally absolute, the realisation of some of which must inevitably involve the sacrifice of others. Indeed, it is because this is their situation that men place such immense value upon the freedom to choose; for if they had assurance that in some perfect state, realisable by men on earth, no ends pursued by them would ever be in conflict, the necessity and agony of choice would disappear, and with it the central importance of the freedom to choose. Any method of bringing this final state nearer would then seem fully justified, no matter how much freedom were sacrificed to forward its advance.*

*It is, I have no doubt, some such dogmatic certainty that has been responsible for the deep, serene, unshakeable conviction in the minds of some of the most merciless tyrants and persecutors in history that what they did was fully justified by its purpose....But equally it seems to me that the belief that some single formula can in principle be found whereby all the diverse ends of men can be harmoniously realised is demonstrably false. If, as I believe, the ends of men are many, and not all of them are in principle compatible with each other, then the possibility of conflict - and of tragedy - can never wholly be eliminated from human life, either personal or social. The necessity of choosing between absolute claims is then an inescapable characteristic of the human condition".<sup>1</sup>*

John Gray has summed up Berlin's account of moral pluralism under three main characteristics. First of all, it is a rejection of the idea of a perfect society or even a perfect human life. Life is manifold in the forms it takes; it is gloriously and inescapably plural. It follows that a developed morality cannot have a hierarchical structure that decides practical dilemmas by the application of a system of principles. In life we are in the business of making trade-offs between conflicting goods and evils, and there is no infallible measuring system for weighing these values against each other. That is why we often reach situations where further reflective deliberation gets us no further on and we have no choice but to act.<sup>ii</sup> I am reminded of Denis Healey's statement that in politics one never reaches conclusions, but one must make decisions.

I have offered that prologue on the clash of values, and the impossibility of harmonising them into a universal system, because it may help to steady our nerves as we enter what has been described as the abortion wars. Here we are confronted by irreconcilable approaches that go on battling one another, like those ancient wars of religion or those intractable ethnic conflicts that litter our history. There seem to be several groups in the abortion debate, so we can talk about a continuum or spectrum of views. The ones at each end of the line seem to be in irreconcilable opposition, but there seems to be a position close to the centre that seems able to keep in touch with the more extreme opinions without necessarily sharing them. Before looking at them, let me repeat the point made in my introduction. Most of the conflicts we engage in are between opposing goods, conflicting values, rather than between straight right and wrong. This does not mean that we will refuse to take a stand, make a decision, go for one of the options in a particular conflict, but it ought to moderate our appetite for dismissing those who are opposed to us on the grounds that they are immoral or have no values. Another issue that will confront us is how we manage these intractable disagreements in a plural culture. As I have already observed, most of us probably feel that somewhere beyond argument there is a unified theory of human nature and its values and that if we all struggle hard enough we'll find it. Both experience and reflection contradict that. This, however, is not moral relativism. It is not the same thing at all as saying that one attitude is no better or worse than any other. To say that

values conflict is not to say that there are no values at all, no fundamental principles that characterise us as human. Our tragedy is not that we are indifferent to the good, but that we recognise that it is sometimes in conflict with itself. Berlin is quite clear that pluralism of the sort he describes is not the same thing as absolute moral relativism.

*"If I say of someone that he is kind or cruel, loves truth or is indifferent to it, he remains human in either case. But if I find a man to whom it literally makes no difference whether he kicks a pebble or kills his family, since either would be an antidote to ennui or inactivity, I shall not be disposed, like consistent relativists, to attribute to him merely a different code of morality from my own or that of most men, but shall begin to speak of insanity and inhumanity; I shall be inclined to consider him mad; which is a way of saying that I do not regard such a being as being fully a man at all. It is cases of this kind, which seem to make it clear that ability to recognise universal - or almost universal - values enters into our analysis of such fundamental concepts as "man", "rational", "sane", "natural", which are usually thought of as descriptive and not evaluative".<sup>iii</sup>*

The difficulty we face in discussing abortion is not that we see obviously good people consistently battling against obviously wicked people, but that different moral traditions offer different answers to certain basic questions, and there is no external arbiter to whom we can go to settle the dispute. For instance, if we ask the basic question, "When does human life begin?", we get a number of different answers. The Roman Catholic tradition holds that life begins at conception. According to the Jewish tradition, life starts at the eighth week of gestation, when the embryo is fully formed. Others have proposed that the beginning of life is at implantation in the womb; yet others that it begins in the second week after conception, when the primitive neural tube is formed and the embryo may respond to stimuli. Some say that, since life has been defined as being terminated when brain activity ends, it should therefore be considered that life begins when brain activity starts. And others hold that human life begins when the conceptus becomes a person with some degree of sentience or active volition.

However, the philosopher John Harris argues that there is an important distinction to be noticed here. He writes:

*"Many people have supposed that the answer to the question 'when does life begin to matter morally?' is the same as the answer to the question 'when does life begin?' The moment of conception may seem to be the obvious answer to the question of when life begins. But of course the egg is alive well before conception...the sperm too is alive and wriggling. Life is a continuous process that proceeds uninterrupted from generation to generation continuously evolving. It is not, then, that life begins at conception. But if not life, is it not at least the new individual that begins at conception?"<sup>iv</sup>*

He points out that life is a continuum and that the emergence of the individual occurs gradually. All that can safely be said of the fertilised egg is that it is live human tissue. In other words, life does not begin at fertilisation, it continues, so what we need an account of is when life begins to matter morally. Harris claims that it is the capacity to value one's own life that is crucial morally. He writes:

*"In order to value its own life a being would have to be aware that it has a life to value. This would at the very least require something like Locke's conception of self-consciousness, which involves a person's being able to 'consider itself as itself in different times and places'. Self-consciousness is not simple awareness, rather it is awareness of awareness. To value its own life, a being would have to be aware of itself as an independent centre of consciousness, existing over time with a future that it was capable of envisaging and wishing to experience".<sup>v</sup>*

In this way Harris arrives at what he calls the concept of the person, as any being capable of valuing its own existence. The moral difference between a person and a non-person, therefore, lies in the value that persons give to their own lives. The reason it is wrong to kill a person is that to do so robs her of something she values, as well as of the very thing that makes it possible to value anything at all. He claims that



to kill a person not only frustrates her wishes for her own future, but frustrates every wish she has. He goes on:

*"Creatures that cannot value their own existence cannot be wronged in this way, for their death deprives them of nothing they can value. Of course, non-persons can be harmed in other ways, by being subjected to pain for example, and there are good reasons for avoiding subjecting sentient creatures to pain if this can be avoided".<sup>vi</sup>*

Following the logic of this definition, Harris argues that since the fetus is not a person in the sense he has defined, a woman has a right to choose an abortion. Since it is not a person, the fetus cannot be wronged if its life is ended prematurely, though it can be wronged in other ways, if it is caused pain, for example. This is why he argues that it is important that abortion is painless for the fetus.

At the opposite end of the continuum to Harris in this debate are those who argue that the fetus is a helpless unborn child, so that permitting abortion is permitting murder. This view, like the position argued by John Harris, has the virtue of absolute clarity, which is why it attracts some of us. It seems capable of removing the anguish that characterises the debate. After all, if it is strongly believed that the fetus has the moral status of a person, then to deprive it of life is the crime of murder. The difficulty with this widely-held view, however, is that inconsistencies begin to creep in when we examine it closely, as Ronald Dworkin did in his book, *Life's Dominion*.<sup>vii</sup> He points out that even those conservatives who believe that the law should prohibit abortion because it is murder permit certain exceptions. For instance, they say that abortion should be permitted to save the mother's life. Dworkin says that this exception is inconsistent with any belief that the fetus is a person with a right to live, because very few people believe that it is morally justifiable for a third party, even a doctor, to kill one innocent person to save another. However, the extreme Roman Catholic position has the virtue of absolute consistency in this area. In a popular novel, *The Cardinal*, later turned into a movie, the central character is a priest who is called upon, as the next of kin, to decide whether to save his sister's life by permitting the medical team to abort her late term baby or let his sister die in order to save the unborn child. He sticks to his code, in spite of the anguish it brings him, and refuses the abortion. The

child is born safely and his sister dies in the process. Few people would make that choice today, but it is the inescapable of consequence of the belief that the fetus is an unborn person with full human rights. This is the most obvious exception made by otherwise conservative opponents of abortion, but they do make other exceptions to the absolute rule, such as accepting abortion after rape or incest. Dworkin writes:

*"The more such exceptions are allowed, the clearer it becomes that conservative opposition to abortion does not presume that a fetus is a person with a right to live. It would be contradictory to insist that a fetus has a right to live that is strong enough to justify prohibiting abortion even when childbirth would ruin a mother's or a family's life but that it ceases to exist when the pregnancy is the result of sexual crime of which the fetus is, of course, wholly innocent".<sup>viii</sup>*

Dworkin believes that any exceptions to the absolute and full human rights of the fetus that permit abortion, however grave the context, demonstrate an implicit acceptance that the fetus does not, in fact, have the full moral status of personhood. It is this gap in their practice that allows him to offer a mediating position that recognises the morally problematic nature of abortion without ruling it out absolutely in all circumstances. This is why he goes on to offer what he calls a liberal view of abortion, one that I would prefer to call a middle way between the absolute prohibitionists and those for whom abortion is not morally problematic at all, such as John Harris, provided it is humanely administered. What Dworkin calls the paradigm liberal position has four parts. First of all, it rejects the extreme position that abortion is morally unproblematic. It insists that abortion is always a grave moral decision, certainly after the genetic individuality of the fetus is established and has successfully implanted in the womb, normally after fourteen days. From that point on, he believes, abortion involves a serious moral cost, because it means the extinction of a human life that has already begun, so it should never be permissible for trivial or frivolous reasons, such as, for instance, to avoid cancelling a vacation.

His second point is that abortion can, nevertheless, be morally justified for a variety of serious reasons. He argues that it is justified to save the life of the mother and in cases of rape or incest, as well as in cases where severe fetal abnormality has been diagnosed that make it likely that the child, if carried to term, will have only a brief,

painful and frustrating life. He amplifies this position, by adding that it may even be argued that, in the face of severe fetal abnormality, abortion is not only morally permitted but may be morally required, because it would be wrong knowingly to bring such a child into the world.

He goes on to argue in his third point that a woman's concern for her own interests is also an adequate justification for abortion, if the consequences of giving birth would be permanent and grave for her family's life. He writes:

*"Depending on the circumstances, it may be permissible for her to abort her pregnancy if she would otherwise have to leave school or give up a chance for a career or a satisfying and independent life. For many women these are the most difficult cases, and people who take the paradigm liberal view would assume that the expectant mother would suffer some regret if she decided to abort. But they would not condemn the decision as selfish; on the contrary, they might well suppose that the contrary decision would be a serious moral mistake".<sup>ix</sup>*

The fourth strand in this narrative is the political opinion that the state has no business intervening even to prevent morally impermissible abortions, because the question is ultimately for the women who carries the fetus to decide. Others may disapprove, and be right to do so; the law might even oblige the woman to discuss her decision with others, but the state, in the end, must let her decide for herself; it must not impose other people's moral convictions upon her and her body. I would like to suggest that a purely pragmatic reason for supporting this particular point of view is the historical knowledge that when abortions are legally prohibited they do not cease, but they do become unsafe and potentially lethal. This is why many people who dislike abortion may prefer to have it made safely available rather than attempted in secret by unskilled practitioners, or be self-induced.

The point of view reflected by these four components seems to be widely shared and is more or less the basis upon which our own Abortion Act was formulated. It plies a middle way between those for whom abortion is never morally problematic and those for whom it is always and in every circumstance murder. It follows that those who

follow this middle way become less comfortable the further into the pregnancy the woman has gone. Most people seem to believe that early abortions are less morally problematic than later ones, which is one reason why the Secretary of State for Health recently suggested that it might be worth making it easier for a woman to have an early abortion than the present Act does. The logic in this is obvious. If you reject the view that the fetus is a full human person; but are equally uncomfortable with the opposing view that the fetus has no personal rights at all, so that aborting it is morally unproblematic; then you are probably hold the view that there is something incremental about the moral status of the fetus, so that the closer it comes to term the more morally problematic abortion becomes. This is why, for instance, the Jewish tradition would find nothing morally problematic about aborting up to the eighth week of gestation. Nevertheless, those who find themselves in this position are likely to experience a certain moral discomfort. This is because those who hold what Dworkin calls the paradigm liberal position believe that, while abortion may morally be permitted, it remains morally problematic. Why do we agonise over abortion more than over, say, an appendectomy or tonsillectomy? It is because we believe that human life in the fetal state, while it may not have the full moral status of personhood with all its rights and responsibilities, nevertheless has intrinsic value and moral significance. We may prefer the risks and dangers of choice to the risks and dangers of prohibition, but we continue to recognise that abortion is problematic, because it is irresponsible to waste human life without a justification of appropriate importance.

This brings us right up against one of those classic human dilemmas between irreconcilable choices. Abortion wastes the value of human life and is therefore a moral wrong, but we permit it because sometimes the intrinsic value of other human lives would be wasted in a decision against abortion. This is precisely the dilemma that faces us as we think about the fourteen year old girl in the no hope housing estate contemplating the birth of an unwanted baby. One way of handling that ethical calculus is to measure the waste of a life that has already been lived for fourteen years and would be wrecked by having the baby, against the waste involved in aborting an early-stage fetus in whose life human investment has so far been negligible. Liberal opinion cares more for lives that are being lived now than about the possibility of other lives to come. Nevertheless, the choices are tragic, not easy, and those who

make them should not be condemned because their moral calculus differs from our own. Emotions are easily roused in this debate, but emotions, though they can dupe us, may also help to keep us sensitive. I have used the word tragic frequently in this lecture, because it captures, for me, the intractability of the competing values that face us here. I regret it when either side in the abortion debate assumes the moral high-ground, so that prohibitionists give the impression that those who believe in choice have no moral basis for their point of view and are little more than murderers; while pro-choicers sometimes give the impression that abortion is as morally unproblematic as a tonsillectomy. This is why some of us feel acutely uncomfortable in positioning ourselves at either end of the continuum and prefer, however agonisingly, to pick our way, with considerable care, through the middle of the battlefield.

Handling the politics of abortion is a real test of the maturity of a pluralist moral culture. What can a group do that believes there is never any moral justification for abortion, that all abortion is murder, in a society where theirs is not the majority view? They have a right to debate with the rest of us, but they should be careful about the tone they use in their arguments. To suggest that theirs is the only morally serious position, and that only they have any reverence for human life, is demeaning to those of us who have wrestled with the issue and reach, however uncomfortably, different conclusions. The abortion debate provides us with an example of how uncomfortable certain groups can be in modern, secular, pluralist cultures. We are seeing something of the same discomfort in the increasing call for state supported sectarian schools. It is difficult for intact moral and religious communities to live alongside their secular neighbours, especially if they belong to traditions that have had a long history of cultural dominance in certain places at certain times. Those who adhere to monist moral systems find it difficult to adjust to life in pluralist cultures, and they usually claim that pluralist cultures have no values of their own. In fact, there are many important values that undergird pluralist systems, none more important than freedom and respect for the human rights of others. One of the paradoxes of this debate is that the systems that monists look back at nostalgically often showed scant respect for human life and individual rights. One of the ugliest aspects of a very ugly movement is the way the Christian Right in the USA, with its so-called pro-life ethic, enthusiastically endorses capital punishment. There never have been perfect human

societies. Our society today is certainly not perfect, and there is much about it that is ugly and spiritually deadening. Even so, I'd rather be in a society that lived with the unpredictable consequences of giving people great freedom of choice than in one that told them all exactly what to do and think, especially if it is claimed that all the orders come directly from God.

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<sup>i</sup> Isaiah Berlin. *The Proper Study of Mankind*. Chatto and Windus. 1997. pp 239ff.

<sup>ii</sup> John Gray. Berlin. Fontana Press. 1995. p. 71

<sup>iii</sup> Isaiah Berlin. *Concepts and Categories*. Hogarth Press. 1978. p 166

<sup>iv</sup> John Harris. *The Value of Life*. Routledge. 1994. p 10

<sup>v</sup> Ibid. p 18

<sup>vi</sup> Ibid. p 19

<sup>vii</sup> Ronald Dworkin. *Life's Dominion*. Harper Collins. 1993

<sup>viii</sup> Ibid. p 32

<sup>ix</sup> Ibid. p 33

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