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CURRENT Medical — Moral COMMENT

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There can be little doubt that, at the present moment in the United States, the most current and important medical-moral issue revolves around the question of abortion. The landslide of legislative agitation to loosen the civil law on abortion is reflected in the fact that although 12 states were considering such legislation in 1966, in the first six months of 1967 that number had risen to 31.

One aspect of the problem which, if not clearly understood, can lead to some confusion in moral thinking, is the historical relationship of the Church to the various theories concerning the time of animation of the fetus, or the moment at which the fetus becomes a human being.

From the Council of Elvira (*circa* 300 A.D.) to Vatican II the Catholic Church has always condemned abortion of the human fetus as the murder of the innocent. Even during those periods of Church history, particularly from the twelfth to the nineteenth centuries, when the more severe canonical penalties for abortion were based on the then medically popular delayed animation theories, still severe penalties were sometimes inflicted for abortion which was done even before the supposed animation of the fetus; and sometimes such abortions were

referred to as "conditional" or "interpretative" homicide. It is of course true that those who accepted the delayed animation theory did not identify abortion before the fetus was considered human as simple murder.

It is true that some moral theologians in the history of the Church, even aside from the considerations of the delayed animation theory, have sought to defend abortion under some extreme circumstances, calling upon the principle of the unjust aggressor, or the principle of the lesser of the two evils, or even having resort to the presumed willingness of the unborn child to sacrifice its life for the safety of the mother. But all of these theories were shown to be erroneous and deficient, and in the history of Catholic thought they were never accepted by the Church as compatible with Catholic doctrine.

THE DELAYED ANIMATION THEORY

The delayed animation theory merits some further comment. The philosophical-physiological-theological speculations as to when the products of human conception are human (i.e. endowed with an individual soul or independent human life, albeit still within the womb and physically dependent on the mother) has never been, and perhaps never will be, definitively set-

led. But whether the new and distinct human life is present from the moment of conception, or at some later stage of gestation, is not greatly significant; because the malice of abortion lies in the willingness to destroy intra-uterine life although it is human or, in the very earliest stages of gestation, even if it is human.

Hippocrates, Aristotle and Galen all struggled with the problem of the moment of specifically human animation, as did Tertullian and Appolinaris, Basil and Gregory of Nissa, Jerome and Augustine, and Thomas Aquinas. The most common theory: that the conceptus passed through a vegetative and animal stage, finally becoming human at about the 40th day in the case of males and the 80th day in the case of females, is by no means bizarre against the background of the scientific method of the time. Men have generally concluded that things are probably what they appear to be. To the naked eye a conceptus in its early stages does look like a sea anemone and by the time an embryo is observable, it looks like any animal embryo. At about 40 days the phallic tubercle makes every human embryo look more like a male than a female, and the external genitalia of the female are not clearly discernible to the naked eye until about the 80th day. And with the theory accepted medically, it is not surprising that some theologians thought they saw confirmatory references in the *Book of Leviticus* (12/2-5) where the purification period of the parturient similarly varies according to the sex of the child.

While the moment of new human life still evades any known investigative process, it is interesting to note that the same scientific method of investigation, aided today by modern microscopy, indicates chromosomal patterns in the nuclei of the earliest stages of cell division as specifically human and indeed already personally individualized, thus seeming to support the probability that, even from this moment, the embryo is not only specifically human, but likewise specifically George.¹

At any rate, the only practical working premise is to treat the human conceptus as though the moment of a new and distinct human life were certainly the moment of conception, as the Code of Canon Law with regard to baptism (canon 747) and abortion (canon 2350). Since the soul may very likely be present from that moment, the destruction of the products of human conception even at a very early stage of development is at least very likely the destruction of an innocent human life. One who does even this has already discarded, from his moral code, the inviolability of human life and falls far short of that regard for the dignity and rights of the individual which is basic to the entire Judaico-Christian theology and tradition, as well as to the American democratic way of life. Such an action is at least identified with the moral malice of murder, since it implies a willingness to kill, even if human life is present.

As early as the fourth century Saint Basil pointed out exactly the

same analysis of the malice of abortion and wrote, regarding the fetus: "Any fine distinction as to its being completely formed or informed is not admissible among us," and he referred to those who give drugs to procure abortion, and to those who take them, as "murderers."²

Likewise in our own time, Pius XI, Pius XII and John XXIII have condemned abortion in very similar terms, as has Pope Paul VI; and the Second Vatican Council referred to

"abortion and infanticide" as "unspeakable crimes."³

REFERENCES:

¹ Towers, Bernard, "Man in Modern Science" *The Month*, 31, 1 (January 1964) pp. 25-36.

² Migne, J. P., *Pat. Graec.*, XX, I

³ Vatican II, "Pastoral Constitution on the Church in the Modern World," Part II, Chapter I.

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