

Position paper on abortion

## **When is killing justified?**

### **A comparison between abortion, war and capital punishment**

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#### Description

The first part of this paper reflects on reasons for the strange inconsistencies in the ethical approach of Christians towards various forms of killing. Those who oppose abortion propagate capital punishment and vice versa, while both parties seem to have no problem with killing in times of war. The second part introduces an important ethical tool into the debate on all three these issues, namely the "lesser evil". Finally I shall make a few suggestions which may lead to greater clarity.

#### Key words

Abortion, capital punishment, war, conscription, morality, Christian ethics, medical ethics, fundamentalism, survival, birth control, family planning, emancipation, pleasure, lesser evil, sanctity of life, emergency

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### **A. The social and historical context of morality**

Let me begin with a few uncomfortable questions. Morality is not independent of the situation in which we find ourselves. For soldiers locked in battle the commandment not to kill is irrelevant. I have an eery feeling that it is we, the safe and comfortable, who can afford the indignation over abortion laws. Frankly speaking I do not know what I would do if I were in the shoes of a young black

woman in a patriarchal context suddenly trapped by a socially unacceptable pregnancy.

I also have an uneasy feeling that the current debate on abortion could be an escape from much greater issues. At times of fundamental social crisis the Christian conscience tends to be deflected to matters of individual sexual morality. During the first great onslaught of apartheid in the fifties some white Christians were agonising about wearing miniskirts. Blacks removed to resettlement camps obviously had other moral priorities at the time.

I do not want to suggest that the problem of abortion is unimportant. But I am convinced that, by marginalising vast sections of the population, the current economic system causes infinitely more damage, agony, even loss of life, than any abortion law could. Poverty leads to desperation, social decay, the dissolution of family cohesion, the breakdown of common decency, the lure of drugs, and rape. It is, therefore one of the prime causes of the avalanche of unwanted pregnancies. It is also in these conditions that back yard abortions flourish.

Why does the whole debate on abortion focus almost exclusively on individual morality while much more fundamental social evils are not tackled? Why is there no corresponding outcry among Christians about the economy? This is not meant to be moral finger wagging; such inconsistencies need to be explained.

### **The historical origins of morality**

The Christian faith is a faith that believes in redemption. It assumes that God has created the universe and wants to bring it to fulfilment. At the end of biblical history we find the notion that God has a vision of comprehensive well-being for his creation as a whole. The early Old Testament expression of this vision is called shalom. Shalom is more than mere peace on earth; it is the vision of harmony between a benevolent Creator and his creation.

As the people of God faced more daunting predicaments the perception of this vision became more comprehensive. The prophets envisaged a new heart, a new body, a new community, a new family of nations, a new heaven and earth. The combination of this vision with messianic expectations led to the concept of the Kingdom of God as found in the New Testament.

The first implication of God's vision of comprehensive well-being is that any deficiency in any dimension of life is the target of God's immediate concern, thus the concern of his people. That is the basis of Christian ethics. The second implication is that what we call the 'Word of God' is always formulated as a divine response to concrete human predicaments, needs and depravations rather than eternal truths that have fallen ready made from heaven.

A good example is the commandment to honour one's parents. It emerged as a response to the practice of nomads to leave the elderly behind to die. The original commandment may have said that, if you do not want to find an early and cruel death at the hands of your children, you should not set them an example by leaving your own parents behind. When the Israelites settled, the commandment was reinterpreted in terms of Yahweh's gift of the land.

Historical evidence suggests, moreover, that even in other religions and world-views moral norms have not originated as eternal and universally valid decrees which demand obedience regardless of the consequences. Rather, they have arisen in history from situations of need and necessity. Most moral precepts are based on plain human sense. If everybody would be free to kill his/her fellow human being, went to bed with his/her neighbour's spouse, had no respect for the private property of others, did not respect and obey superiors, there would be social chaos. Today we could (and should) easily add commandments dealing with environmental destruction, squandering of scarce resources, economic marginalisation, prohibition of torture, or trade with addictive drugs, and declare them to be based on God's will.

The derivation of norms from need and necessity is historically plausible and theologically valid. Once again, the biblical faith is a redemptive religion. Moral norms are supposed to serve the survival, vitality and prosperity of human beings. That is their inner rationale. Jesus said that humans were not made for the Sabbath, but the Sabbath for humans. A moral precept that absolutises itself becomes an idol and can oppress, impede and even destroy life.

Of course, this rationale can be abused. In the first place, the interests of the community can be transferred to the interests of the leaders of the community. Then the rank and file must suffer for the safety, power and luxury of the elite. Secondly, the interests of one community can be pursued at the expense of the interests of another community or individual. Third, the interests of humans can be pursued at the expense of the survival and flourishing of the rest of nature. In all these cases morality is used to cover up or legitimate sectional interests. This is one of the reasons why economic and ecological issues are not being addressed to the extent that they should.

### **The commandment not to kill**

The underlying rationale of serving the well-being of the relevant community also explains why the prohibition of killing another human being has never become an absolute norm in human cultures the world over. Where killing protects or enhances the survival and prosperity of the community, it is not considered to be murder but heroism. When the interests of the leaders usurp this motif, you die 'for God, fatherland and empire'. The victims are called heroes. Those who do the killing are not brought to justice but receive military decorations.

At a time when the survival and prosperity of human communities were constantly under threat by disease, drought, malnutrition, wild animals and enemies, the generation and protection of progeny had to be a priority. That is why in all traditional cultures fertility is considered to be a value, barrenness a curse, contraception a lack of responsibility, homosexuality an abomination, abortion a crime.

Murderers are dangerous for the community and must, therefore, be neutralised. Where there are no prisons you have to kill them. The same is true for traitors. Child bearers are considered to be the most fundamental asset of the community. Therefore they are not exposed to dangers such as war or hunting trips. They are also locked up in narrow social confines which resemble modern bank safes.

These examples show that it is the underlying rationale which leads to the strange inconsistencies in human morality. Infants with defects are killed, children are sacrificed to the gods, slaves are buried alive with the corpses of their masters, the aged are left to die in the desert, an adulterous woman is stoned to death, while male promiscuity is condoned, where twins present a burden rather than a blessing for the family, they are killed.

We do not deny that morality is rooted in conviction. But conviction is also rooted in experience. To get right with God was, originally and essentially, to get right with the powers that underlie, cause and determine reality. Today science has largely taken over the function of relating to the forces which determine our lives. As a result the concept of God has been divorced from experienced reality and posited as an abstract guarantor of an equally abstract morality deemed to be eternally and universally valid irrespective of the consequences.

This is how fundamentalism comes about: where the experiential plausibility for religion and morality has been lost, you have to posit an absolute truth and demand mindless submission to ostensibly timeless assumptions, values and norms. As mentioned above, norms that no longer function as responses to concrete needs either become irrelevant or idolatrous and destructive. An approach which takes account of the natural, social and cultural roots of social norms place the ethical debate on a completely different level.

### **The modern revolution in the necessities of life**

Circumstances have changed dramatically in modern times. Our survival and prosperity no longer depend on courageous warriors and sexual potency. On the contrary, modern weaponry threatens our survival and prosperity, while the overstimulation of sexual passion destroys our families, health and happiness. Both aberrations are entirely unnecessary. There are highly effective diplomatic and legal means to resolve conflicts, while it is no secret that sexual fulfilment is rooted in commitment rather than promiscuity. Those who glorify power, violence and sexual passion do so for the sake of self-gratification, or to make profits at the expense of the community.

In a modern, well organised state, the well-being of the community is also no longer threatened on a substantial scale by criminals, because these can be locked up and, in many cases, rehabilitated. We also have the means to curtail crime generating forces, such as poverty and social disintegration if we cared to use them. So we do not need to get rid of criminals by killing them.

The rationale for high rates of fertility has also disappeared in modern times, because humankind has proved to be too fertile rather than not fertile enough for its own well-being. This has not always been the case. For most of its history humans had reasons to inculcate two absolute virtues, namely to procreate and to protect the progeny against threats, by violent means if necessary. Towards the end of the 20th Century we began to face a strange inversion. Sexuality has emancipated itself from the motive of procreation, while the threat to our survival and prosperity as a species emerges at least partly from our wombs.

It sounds ridiculous, even blasphemous, but the population explosion begins to resemble the economic crisis caused by the invasion of an army which threatens both the living and the yet-to-be-born. We are at the point of passing the threshold where existing food resources, even under the assumption of completely equal distribution, can no longer secure a balanced diet for everybody. The situation is bound to become worse as fossil fuels (on which the miraculous productivity of modern agriculture and manufacture is based) run out, as pollution levels rise, water resources dwindle, and the soil is poisoned by fertilisers and pesticides. We are just becoming too many and too greedy for our earth to sustain us.

In some societies abortion has become a prime means of birth control. If it were true that early abortion killed a fetus before it was able to sense pain (which is controversial), this would seem to be more humane than allowing it and many of its contemporaries to die of starvation or violence later.

Fortunately we do not have to abort our fetuses and kill our infants. There are absolutely feasible and acceptable alternatives: sexual discipline, contraceptives, adoption, accepting responsibility for unplanned pregnancies and - general responsibility concerning the utilisation and the distribution of the earth's resources.

### **The persistence of obsolete norms**

The point to be made is that we must derive our norms from the prerequisites of collective human survival and well-being, and these change over time. Unfortunately this is not what happens. While the situation has changed dramatically, internalised norms persist among the faithful. As mentioned above, outdated moral norms tend to be transformed from experiential necessities into timeless truths. In this form they can become highly counterproductive. We are still trying to "fill and subdue the earth", as if we were a handful of nomads threatened by an overwhelmingly hostile natural environment.

But in an age characterised by its emancipatory thrust, authoritarian precepts simply do not make sense to most people any more. The result is that sexual morality is discarded. The youth, especially, is not impressed with prudish indignation. They want to understand why there should be sexual inhibitions at a time when, due to contraceptives, pregnancy is no longer an issue.

Of course, there are very sound reasons for sexual discipline and we owe it to our contemporaries to spell them out. One of the most fundamental is that, in contrast to many other species, the newly-born human needs a socially protected "nest" to grow to healthy adulthood. Where family structures dissolve on a large scale, the growth of anomie in the population is almost inevitable. Another reason is that sexuality without total commitment becomes a shallow and fleeting pleasure rather than the fulfilment of an interlinked and responsible personhood.

The point is, however, that emancipated people are not convinced by authoritarian precepts. They need to understand. The problem is that the new necessities have not necessarily become clear to sections of society which want to enjoy their newly found freedom. To a large extent modern people do not want to know what can be known. We want personal freedom without public responsibility. We want to maximise profit, regardless of its impact on the well-being of others. We

want instant satisfaction, not the steady growth of the wholeness of life. We also have not internalised the absolute priority of preserving the earth on which all future life depends.

Nature has attached satisfaction to necessity. We have learnt to deal with necessity in other ways and now crave for a kind of infinite pleasure which is detached from necessity. We no longer eat to feed the body; we no longer fight to protect the tribe; we no longer work to sustain life. We do all these things to get "highs". And in our rush for pleasure we trample down the interests of others. If a comfortable middle class couple resorts to abortion, for example, this is a case where the powerful serve their own sexual and financial interests at the expense of the powerless - in this case a human being in becoming.

That is why the debate has become irrational on both sides. Fundamentalist authoritarianism is pitched against irresponsible libertinism. This does not need to be the case.

## **B. Breaking through the abortion deadlock**

The new political culture in South Africa, envied by many other countries, is to sit down and talk it out. The debate on abortion threatens to undermine this fledgling tradition. The current deadlock may be due at least as much to a lack of clarity as to a clash in convictions and values. I am convinced that, if consensus could be reached on the following six principles, the conflict could be resolved more readily. To see things in context, I shall apply each of these principles to three issues connected with the taking of life: war, capital punishment and abortion.

### **1. Sanctity of life**

Let me begin with the set of assumptions which command the "moral high ground" in the debate: (a) It is wrong to kill a human being. (b) A fetus is a human being in becoming, whose right to life should be respected from the moment of conception. If these two assumptions are right, it follows that it is wrong to kill a fetus.

Let us assume for a moment that this principle was an absolute law which had to be upheld regardless of the consequences. Then the taking of life could be justified under no circumstances whatsoever, whether in retribution, in self-defence, or in defence of those entrusted to one's care. Then we could not condone war, capital punishment or abortion of whatever kind.

Some Christians have tried to apply this principle consistently and have suffered for their convictions. Their model was a particular perception of the attitude of Jesus, who did not resist execution and forgave his torturers. It is inconsistent, however, to oppose abortion, regardless of the circumstances, while allowing for capital punishment and war. Where was the outcry, for instance, when our armies marched into Angola and bombed the camp of Kassinga?

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## 2. Choice of the lesser evil

But is the absolute stance sketched above tenable in the first place? Mainline ethics has argued rather persuasively that in real life situations the choice is, very often, not between good and evil but between two evils. Trying to avoid a lesser evil, one can become guilty of allowing a greater evil to occur. During World War II there was a group of men who tried to assassinate Hitler with the aim of preventing the deaths of millions of other people. This would have been the lesser evil. If a lunatic indulged in a shooting spree on a busy street and the police shot and killed him, this would be a lesser evil. If a doctor faced the choice between abortion or losing the lives of both mother and child, the former would be the lesser evil.

## 3. There must be criteria for what the lesser evil is

To avoid abuse of the principle of the lesser evil we need criteria on what should be considered the lesser evil in concrete terms. Ethicists have drawn up such criteria, for instance in the form of the "just war theory". The latter says that a war (or a revolution) is only justifiable if conducted by a legitimate authority, as a last resort, with a just cause, just goals and justifiable means. Soldiers have been encouraged to disobey orders in the case of an unjust war.

Capital punishment could be interpreted in terms of the right of a society to defend itself against its enemies. But this argument is untenable because even in war one is not allowed to kill an unarmed prisoner. So life imprisonment is the lesser evil if compared to capital punishment.

Abortion could be interpreted as self-defence, or defence of an innocent life, for instance, if the mother was a rape victim and her life was in danger. But abortion on demand points in the wrong direction. A woman should indeed be in charge of her own body, but biologically a fetus is another human being entrusted to her care, not an extension of the mother's body. And a mother may not even take her own life, let alone that of her child.

Moreover, the right over one's body must be qualified. In a marriage two people place their lives, and thus their bodies, under the discipline of joint responsibility. "The wife does not have (sole) authority over her own body, but the husband does; likewise the husband does not have (sole) authority over his own body, but the wife does" (1 Cor 7:4). In a patriarchal society this balance is distorted and abortion on demand may be the lesser evil under such circumstances. But if male domination is the problem, one should attack male domination and not the fabric of the family which is based on mutual trust and responsibility.

The point to be made here is that the principle of the lesser evil does not give blanket rights, whether to the state, the community, or the individual, to use force, to conduct war, to execute criminals, or to allow abortion on demand. Strict criteria must be established by the society which indicate when an action of this nature is indeed the lesser evil. Surely a perfectly normal family, which is suddenly confronted with an unplanned pregnancy, does not fall into the same category as a teenager, who has become the victim of a rapist, faces the ostracism of her family

and is emotionally too destabilised to accept the child. It is here where ethicists and lawyers are debating the merits of specific time limits after conception and so forth.

#### **4. Commitment to overcome the greater evil**

An emergency measure may not become the norm. Choice of the lesser evil is only justified as long as, and to the extent that, one can do nothing about preventing the greater evil. Choice of the lesser evil presupposes a commitment to overcome the greater evil, thus making the lesser evil redundant. If we built up the immune system of the society, we would not have to administer bitter pills.

Wars should be prevented through diplomacy. Conflicts should be resolved through courts and negotiation. If convicted criminals can be prevented from causing havoc in society by imprisonment and rehabilitation, they should not be executed. At the same time social conditions which generate crime, such as broken families, drug addiction, and poverty, must be overcome. If we could prevent unwanted pregnancies, promiscuity and rape, abortion would simply not become an issue.

#### **5. Moving from evil in the direction of the good**

Uprooting the greater evil is a process which takes time and effort. Most of the time it is impossible to jump from evil to good in one fell swoop. We can only embark on a journey from evil towards a closer approximation of the good. Our ideal may be to achieve global peace and total disarmament. But if that ideal is out of reach for the time being, we can at least take the first step and place a ban on nuclear, chemical and biological warfare. Similarly, our ideal may be a spirit of mutual respect and responsibility in the society. But while a criminal mentality is still around, we can at least begin by moving from capital punishment to life imprisonment.

Similarly, our ideal may be stable marriages and sexual discipline. Indeed, a time may come when people will begin to rediscover the age old truth that sexual fulfilment and healthy offspring are the fruit of a life-long commitment between two partners. But while millions of youths and adults are under the impression that they are entitled to instant gratification of all their whims and desires, fired by the modern advertising and entertainment industries, and have lost every sense of doing wrong when playing around with sex, one can at least begin with promulgating the condom. With that one does not condone promiscuity and licentiousness. One only averts the greater evil, thus gaining time to go to its roots and try to overcome it.

#### **6. Space for the choice of the lesser evil within the legal system**

The choice of the lesser evil must be accessible, otherwise the greater evil will occur. We want peace but we still maintain an army - just in case. We want mutual respect and responsibility, but we still maintain a police force and correctional services. As long as, and as far as, the greater evil has not been overcome, the law must provide the space for choosing the lesser evil. Certainly there must be strict



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criteria which determine when an abortion is the lesser evil. Abortion on demand without any criteria whatsoever cannot be justified on moral grounds. But the choice of the lesser evil must be accessible, without fear of incriminating oneself, to all those who have ended up in a desperate situation.

The perfect world, or the Kingdom of God, is a vision which should inspire our action. This includes a disciplined youth; no extramarital sex; no rape; no child abuse; no drugs; no prostitution; healthy families; sound family planning; no unwanted children; no uncared-for children - and, of course, no abortion. This is what the church of Christ has to proclaim as the redemptive will of God.

But we are not in a perfect world - not yet! State laws are meant to contain evil and create the space for life to flourish. And in practical questions of morality the question is not what ought to be, but which policy would bring us closer to what ought to be. That is, which policy would lead to the lesser evil under given circumstances.

I am certain that working through these six principles together will go a long way towards a resolution of the conflict. But there is another condition: that all parties are willing to question their favourite arguments, abandon their hidden agendas and begin to listen to each other.

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