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## REVIEWS

### THE ABORTION BIAS

Jennifer James\*

ABORTION: LAW, CHOICE AND MORALITY. By Daniel Callahan. New York: The Macmillan Company, 1970. Pp. 524. \$14.95.

"Abortion is a nasty problem," begins Daniel Callahan, and, despite subsequent evidence of exhaustive scholarship and research, this view remains as a thread, carefully controlled, but nevertheless present throughout. Daniel Callahan's main interest is in the moral rather than legal or choice aspects of abortion. He is a Roman Catholic scholar and director of the Institute of Society Ethics and the Life Sciences. Abortion is presented as a moral, medical, legal, sociological, philosophical, demographic, and psychological problem "not readily amenable to one-dimensional thinking."<sup>1</sup> Yet only one dimension is present in his book—the moral question. This presentation is supported, however, by a comprehensive discussion of the available empirical and philosophical data on abortion.

Callahan's book encompasses a vast amount of information. Basically it presents a well documented and annotated discussion of the abortion question which utilizes medical and social information to provide a background rather than the basis for establishing a moral approach to abortion. This data is presented in a scholarly manner and provides comprehensive information for the serious reader that is useful for a clear view of the issue despite the presence of the author's personal convictions.

As Callahan views it, the problem of abortion concerns the fundamental meaning of human life. A belief in God is essential to the basis of his argument of the "sanctity of life." His discussion is persuasive. The issue of protection of life is clear, but his application of Christian ethics is questionable. As Callahan points out, "the Christian com-

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1. D. CALLAHAN, ABORTION: LAW, CHOICE AND MORALITY 1 (1970) [hereinafter cited as CALLAHAN].

munity itself, historically, has valued many goods over physical life: the protection of a free conscience, justice, a just peace, the protection of necessary societal values."<sup>2</sup>

Most Christian societies have found ways to justify war, capital punishment, and other forms of killing—as long as God is on their side. A philosophical discussion of the value of life transcends Christianity. Here we can reverse a question raised by the author. Callahan asks what the impact would be if a researcher could demonstrate that those favoring restrictive abortion laws were in general more respectful of all forms of human life than those who favored liberal laws. But this writer believes that the inverse question is more likely to be answered in the affirmative and would score an empirical point for the liberal view.

Another book that considers the moral and the human question of abortion is *Who Shall Live: Man's Control over Birth and Death*, by the Society of Friends.<sup>3</sup> The Quaker conscience has frequently addressed itself to the difficult moral and social issues of contemporary life, and the varied points of view on the moral issue are conscientiously and fairly discussed in this book. If read in conjunction with the comprehensive data presented by Daniel Callahan, a more complete picture of the abortion issue would be drawn.

In a sense, Callahan's book represents a long conversation the author has had with himself for a period of over four years. What he terms the "residue of innumerable conversations"<sup>4</sup> slowly moves him from his original intention of defending the Western tradition prohibiting abortion to an admittance that there are some reasonable arguments in favor of abortion. His bias is clear; his reasoning is complex. Even as he finds arguments from other points of view affecting him, he states, "I found myself unwilling to become a total convert."<sup>5</sup> Callahan is able to present the complexity of the situation in an exhausting, redundant style, but he never quite achieves his moral solution. In an effort to say everything objectively, he makes it difficult to feel he has said anything definitely.

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2. *Id.* at 311.

3. SOCIETY OF FRIENDS, *WHO SHALL LIVE: MAN'S CONTROL OVER BIRTH AND DEATH* (1970).

4. CALLAHAN at 17.

5. *Id.* at 18.

## Abortion: Law, Choice and Morality

In order to discuss dimensions that are missing in Callahan's work, a presentation of his conclusions is necessary. At the end of the book the author proposes his conception of a good abortion law:<sup>6</sup>

(1) It would permit abortion on request up to that point where medical danger of abortion becomes a concern (normally about 12 weeks); thereafter serious reasons would be required and the decision would not wholly be the woman's (though her voice ought to continue, even then, to carry the greatest weight). . . .

(2) It would offer—but not require—prior to the abortion, a formal counseling process by at least one trained person other than the doctor who would perform the operation. . . .

(3) It would provide for free abortions for all women who desire an abortion, as well as providing free assistance of the kind needed to bear and raise a child if that option is chosen.

(4) It would require a contraceptive counseling and assistance process after an abortion was performed. . . .

(5) It would include a "conscience clause" for doctors and nurses, as well as specifying those conditions under which a doctor could, on medical grounds, refuse to perform an abortion. . . .

(6) It would require that all abortions be performed by trained medical personnel and be recorded for statistical purposes.

It is difficult to quarrel with these guidelines. The conflict arises before and after these guidelines are presented—before, in Callahan's attitude toward women and his noninvolvement of men; after, in his attempt to press his view of the moral question by making women feel guilty for what they have done. Perhaps the most serious weakness in this otherwise informative book is the elimination of the individual in what is a highly personal area.

The most obvious individual missing is the woman. Callahan discusses women as if they were reproductive machines and, despite all the evidence he presents to the contrary, leaves the impression that a woman can survive a nine month term regardless of her circumstances. If she then does not want the baby, others will care for it. While the destruction of the fetus in abortion is minutely detailed, discussion of the physical and psychological aspects of pregnancy is omitted; the stress on a woman's body and emotions resulting from pregnancy and childbirth are not mentioned. These omissions are ob-

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6. *Id.* at 488-89.

vious enough to make one recall the feminist poster depicting a pregnant man and the caption, "You'd think twice if this happened to you . . ." The fact that a pregnancy is natural does not eliminate consideration of it as a debilitating process. Pregnancy and childbirth have considerable effect on a woman both psychologically and physically, as any obstetrician or any woman who has borne a child will testify. These are not considerations to be passed over lightly or, as in the case of this book, not mentioned at all.

Although he covers in minute detail every other aspect of the abortion arena, the author pays minimal attention to women's rights. He notes serious problems with the credibility of women where their pregnancy is concerned. For example: "a subjective report from a woman that she is hostile, fearful or anxious provides no presumption for or against abortion."<sup>7</sup> Women, he points out, change their minds from one period during pregnancy to another and after birth they may approve altogether. In addition:<sup>8</sup>

[A]lmost all pregnancies are accompanied by some degree of fear, anxiety or apprehension; many women, on first discovering a pregnancy, do not want the child, but later come to accept it readily enough. . . . The question is, what counts as *seriously* not wanting a child and what may be counted as that kind of transitory recoil which will disappear as the pregnancy progresses?

The desirability of changing the woman's mind and pressing her conscience is an argument that Callahan presents frequently with no consideration of the dynamics of pregnancy as they personally affect the woman.

The author questions the rights of women to determine what will happen to their bodies, pointing out that the rights of women are as narrow an approach to the question of abortion as the rights of the fetus. His belief in the equality of the rights of the woman and the fetus is clear. In reference to the embryo from the point of conception forward he states, "[t]hat right [to life] should be accorded even to doubtful life; its existence should not be wholly dependent upon the personal self-interest of the woman."<sup>9</sup>

Even after the presentation of his essentially liberal guidelines for

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7. *Id.* at 58.

8. *Id.* at 455.

9. *Id.* at 498.

abortion reform, he backtracks to the issue of pregnant women. Abortion, he states, is an “act of killing.”<sup>10</sup> He refers to the “class of such women” and “all those like her,”<sup>11</sup> and adds that “the wrestling should always be hard, whatever her conscience finally decides.”<sup>12</sup> Callahan expands on this theme to state, “The goal of these remarks is to keep alive in the consciences of women who have an abortion choice a moral tension; and it is to hope that they will be willing to bear the pain and the uncertainty of having to make a moral choice.”<sup>13</sup> According to Daniel Callahan:<sup>14</sup>

Even in the most extreme cases—rape, incest, psychosis, for instance—alternatives will usually be available and different choices open. It is not necessarily the end of every woman’s chance for a happy, meaningful life to bear an illegitimate child. It is not necessarily the automatic destruction of a family to have a seriously defective child born into it. It is not necessarily the ruination of every family living in overcrowded housing to have still another child. . . . It is not inevitable that a gravely handicapped child can hope for nothing from life. It is not inevitable that every unwanted child is doomed to misery. It is not written in the essence of things, as a fixed law of human nature, that a woman cannot come to accept, love and be a good mother to a child who was initially unwanted. Nor is it a fixed law that she could not come to cherish a grossly deformed child.

True, it is not necessarily so, or even inevitable. But what about the *quality* of human life while we have it? What about the father in all these references to “she” becoming a good mother?

Abortion as a contraceptive is another area in which Callahan does not include women. Although most women would point out that abortion is not an ultimate solution to the contraceptive problem, the author offers examples of countries where an “abortion mentality” has developed, specifically Japan. The fact that other means of contraception are not readily available in Japan is overlooked. Abortion is viewed as a “habit” that women may get into if sufficient precaution is not taken. Subsequent discussion of the necessity of improving birth control methods does not dispel this image of woman.

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10. *Id.* at 499.

11. *Id.* at 474.

12. *Id.* at 480.

13. *Id.* at 500.

14. *Id.* at 496-97.

Constantly emphasizing the fetus in describing abortion techniques, Callahan offers no parallel description of what is done to the women. An accurate description would certainly dispel the image of abortion as a contraceptive method. Abortion methods include (1) dilation and curettage, (2) vacuum aspiration, (3) saline injection, and (4) hysterotomy (miniature Caesarean section). The first of these is the most common abortion technique utilized. It consists of dilating the cervix and scraping the uterus. The process is painful and few women would seek to repeat it. Vacuum aspiration is a less frequently used method; it requires early detection since most physicians will not use it past the eight-week mark in pregnancy. It is less discomforting than dilation and curettage but difficult to obtain. Saline injection includes the introduction of a strong salt solution via an abdominal injection. This solution kills the fetus and induces labor that may last anywhere from 24 to 48 hours. Hospitalization is usually required. The fourth method, hysterotomy, is a seldom used surgical procedure. It requires general anesthesia and a hospital stay of approximately a week. All of the above are painful, uncomfortable, expensive and time-consuming procedures that few women would submit to if it possibly could be avoided. Referring to the development of an "abortion habit" can be loosely compared to the development of a "tooth-extraction habit" in lieu of regular dental care. The restraints are abundant; in addition to this physical ordeal, women undergoing abortion face the intensely personal, moral, emotional, and religious questions Callahan poses.

Another view of the birth control issue also needs to be mentioned. Absolute protection is not as easily obtainable as often is indicated. Contraceptive pills have many disadvantages and side effects that have been well publicized. Interuterine devices can be expelled or cause discomfort. Some women develop allergic reactions to contraceptive foams and jellies, in addition to complaints from sexual partners that they inhibit pleasure. Though it has few other disadvantages, the diaphragm must be inserted just before intercourse and, therefore, is ineffective in the context of spontaneous sexual relations. It also can be dislodged during intercourse. Condoms are about as effective ideally as the diaphragm but in practice are less so because many men refuse to use them. Condoms are the only available method of birth control other than coitus interruptus or vasectomy that places the responsibility on the male; all other methods place the full burden of contraception on the woman. Yet, this is a society with a sexual

double standard that encourages women to carefully limit sexual activity and therefore be surprised and unprepared when it occurs. The threat of an unwanted pregnancy is a constant in a woman's life from age 12 to age 50.

Callahan makes no reference to the psychological stress resulting from a woman's fear of conception and its effect on her sexuality. This is perhaps a key point in any consideration of contraceptive failures—the imbalance of responsibility. There certainly would be less recourse to abortion if contraception were a shared responsibility. Throughout his discussion of abortion the author never includes men as partners in the act of contraception or conception. There is no male, no impregnation, anywhere in Callahan's argument. Pregnancy and abortion happen to women. He does not mention even in one instance that the biological process requires the initial presence of a male until the last chapter when he discusses the right of man over his sperm, his genetic contribution. Despite his careful scholarship, this absence of any mention of the male role suggests virgin birth or certainly virgin responsibility. As he puts it, "a decision is called for when a woman wants or believes she needs an abortion. The whole problem of abortion 'indications' arises because of these desires or needs."<sup>15</sup>

Two issues remain in this review of Callahan's book: woman as the bearer of guilt, and the place of law in the abortion decision. Alice S. Rossi has discussed the first issue: "The only criterion should be whether such an induced abortion is consistent with the individual woman's personal set of moral and religious values, and that is something only she can judge."<sup>16</sup>

Determining the place of law in the abortion decision requires a consideration of the purpose of law. The purpose of the legal code should be to provide constraints on society where necessary for community existence, not to enforce a public conscience. Whatever one's view of the morality of abortion, it cannot be proven to pose a danger to the community. Abortion is, to this reviewer, basically a medical question to be decided like all other medical questions, by the patient and her doctor, not by the politician. Present abortion laws, as Callahan's summary of the data demonstrates, are (1) largely unenforced

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15. *Id.* at 398.

16. Rossi, *Public Views on Abortion*, in *THE CASE FOR LEGALIZED ABORTION* Now 31-32 (A. Guttmacher ed. 1967).



and unenforceable, (2) uncertain in their scope, (3) discriminatory in practice, (4) in conflict with the judgment of medical research, and (5) based upon the use of the law to impose religious values upon those who do not subscribe to them. The argument in defense of restrictive laws is that they "help protect man against his own tendencies to inhumanity."<sup>17</sup> In fact one could make the contention that the opposite is true, for restrictive laws accomplish neither their symbolic nor their functional purpose. Arguably, they are frequently counter-productive, creating many more abuses than they cure or preclude. As Callahan himself points out, on one point only is there a global consensus: the medical danger of underground abortions. It is clear that "deaths and injuries are higher in restrictive systems than in permissive and moderate."<sup>18</sup> It is obvious that the law cannot successfully make criminal what the public does not want made criminal. Thus the essential legal question is the extent of the variance between the state of the law and public behavior and opinion. One should also consider another fundamental legal question: what are the constitutional rights of the pregnant woman without reference to her community?

We have no possibility of utopia in our world. There is an extensive discrepancy between what is expressed as ideal and what in fact exists. There is a further philosophical tension between the sanctity of life and the quality of life. This tension will always be present as part of the human condition. Abortion is not regarded by anyone as an ultimate solution—it is only an interim procedure to make life relatively better for both men and women.

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17. CALLAHAN at 127.

18. *Id.* at 287.