

**WHAT PREVENTS LIFE FROM BEING WORTHWHILE? - AN EXAMINATION  
OF SOME CHANGING VIEWS ON HUMAN LIFE AND SUFFERING**

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What prevents life from being worthwhile? - an examination  
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by Christie Davies

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In any consideration of the question 'What makes life worthwhile?' it is essential to ask the converse questions 'What prevents life from being worthwhile?' What would lead a person to judge his or her own or indeed someone else's life as being temporarily or even permanently not worthwhile? It may be that this negative question is easier to deal with (though not, therefore, easy) than the positive question that forms the title of the conference. It seems plausible to argue that people are more similar in their needs or their deprivations than in their wants, tastes, choices. Hunger, thirst, illness, injury, pain, isolation, loss, afflict people in similar ways (though not necessarily to an equal extent). However, there is a marked divergence in the things individuals value most - family, relationships, religion, learning, creativity, fulfilment through work, pleasure, wealth - whether we measure these evaluations by asking them or by observing their behaviour.

I emphasise this distinction (which I am glad to find was also made in a previous I.C.U.S. paper by Ninian Smart<sup>1</sup>) because I think it will help us to understand much of the day to day moral

and political arguments that take place in modern western capitalist societies whose politicians offer the electorate varying packages of freedom and welfare. In the market place ideally every man is free to be happy in his own way. Indeed, it might almost be said that the distinctive feature of totalitarian societies that sets them apart from even enlightened authoritarianism is that their leaders separately feel able to decree 'in my state every man can only be happy my way'.<sup>2</sup> A centrally directed decree as to what makes life worthwhile is the surest guarantee that it won't be. The alternative is not chaos but a diverse and spontaneous order in which there is room and indeed respect for individuals who have a particular vision of what makes life worthwhile provided only that they do not seek to establish a monopoly for it by the exercise of political power. As far as possible we assume that our citizens are rational individuals free to pursue their own notions of what is worthwhile provided they don't harm others. The only really doubtful area relates to choices that are or appear irreversible in the sense that they either preclude contrary choice in the future or indeed destroy the possibility of any future autonomy.<sup>3</sup> The one thing an individual in a free society cannot choose is to be unfree. Thus we forbid or very vigorously discourage serious self-mutilation, drug addiction, or contracts of slavery. It is at times a fine line: a man may become a monk, but not a eunuch; a woman may pierce her ears but not undergo female circumcision; both may occasionally get drunk in private, but there is no free market in opiates. The problem is not so much self-harm as the

prevention of a choice whose consequence is a state where the person subsequently wishes to return at the very least to the status quo ante but is physically or legally unable to do so. So strong has this sentiment regarding the maintenance of future choice become that all manner of legislative changes have been exacted in the western world in recent decades that undermine previously irreversible decisions and even physical events. Easier divorce means that marriage is reversible (divorcees can choose again) and freely available abortion that pregnancy is reversible. It is worth noting also in passing that the abolition of capital punishment has removed the one totally irreversible penalty that the law can inflict. None of this implies that the individual cannot or should not undertake firm commitments or enter life-time vocations, it merely means that they cannot easily be enforced. Flagging sentiment cannot be reinforced by coercion and it has become more difficult for an individual or an institution to call on the power of the state to uphold their particular view of what makes life worthwhile against defectors.

By contrast there is some degree of agreement as to what makes life unworthwhile. The countries of the free world all have extensive welfare arrangements of one kind or another as safety nets against accident, disease, want or distress and political controversy is about the height of the net and the size of the mesh rather than whether the net should exist at all. Apart from a few stalwart individualists and a noisy stage-army of crackpot egalitarians, most citizens probably view welfare as a kind of dual insurance policy. At one level it duplicates and extends ordinary commercial

insurance, so that we have some degree of cover against 'unthinkable' risks that we do not seem prepared to contemplate. We can and do insure ourselves against acute medical and surgical crises, but so far as I know, insurance companies do not offer, nor do customers demand cover against the policy holder becoming chronically insane, prematurely senile, or the parent of a severely and permanently handicapped child. Either these possibilities are ones that we banish from our minds when we make rational choices about insurance or else the actuaries and assessors feel that only those most severely at risk would enrol and the premiums would have to be prohibitively high. Consequently, in this most vital area it is the state (on the whole very inadequately, particularly given the high level of wasted expenditure on welfare in other areas) that has to provide. At another level there is a further kind of subjective "insurance"<sup>4</sup> involved based at best on empathy, at worst on a sort of superstitious Rawlsianism. We feel that were we to have been born with or developed X's affliction, we would have wanted the state (or some established private charitable body) to provide aid and support. Whereas other individual sources of fulfilment are often a mystery to us (how or what on earth can they 'sit through filthy Mozart' / 'grow spuds on an allotment when they are so cheap at the greengrocer's' / 'see in that awful spouse' / 'stand in the rain every Saturday shouting 'Rangers!' / 'get so excited at seeing a lesser spotted sludge-widgeon' / 'go to that little tin chapel up in Screwyn twice a week for a dose of Hell-fire' / 'get any satisfaction from a job like that') we can always understand

something at least of their pain and distress. Hence the main practical common denominator in our moral and political thinking tends to be the outlook I have elsewhere termed 'causalism', a kind of short term negative utilitarianism by which we approve measures that promise to reduce the pain, harm or suffering of a particular group of individuals in the immediate future.

It appears to be a fairly bland doctrine and yet as I have shown elsewhere<sup>5</sup> it has proved the key to an understanding of much of the fundamental shift in the relationship between law and morality that has taken place certainly in Britain and probably in much of the rest of the western world during the last forty years. I shall return to this point later for it is here where the growing force of 'causalism' has clashed with earlier views of the worthwhileness of life that the key issues for consideration are made more sharply clear.

It is striking how quite radically and rapidly the morality of inflicting pain has changed over time in the western world with the abolition of torture and the abolition or at least withering away of capital and corporal punishment. The scope of the ban on "cruel and unusual punishments" (of the British and American Bills of Rights) has been gradually enlarged whether explicitly or implicitly and the right of authorities of all kinds legitimately to impose pain has been universally reduced. The brutal infliction of pain has not been abolished, indeed in recent years it may in aggregate even have increased, but it has lost any moral basis it may once have made. The inflictors of pain are

either deviants who defy the rules of their own society or governments such as the Soviet Union that do not in any sense rule with the consent of the governed or uphold the rule of law. This concern to avoid pain extends to children, animals and the dead. The authority of teachers or parents to beat children has been steadily reduced and in Sweden it is an offence for them to do so. Experimental psychologists train rats with sugar pellets and electric shocks, but educational psychologists speak only of 'positive reinforcements'. However, animals too are more protected from wanton cruelty than they were and it is generally held to be worse to cause severe pain to an animal than to kill it. Far more vituperation is directed against vivisectionists than against those who have unwanted pets "put to sleep". We eat chicken and abhor cock fights. Finally, one can point to a decline in the popular belief in Hell that is far greater than the attenuation of belief in some kind of afterlife. The idea that a benevolent God could inflict infinite and endless suffering (a problem that so bothered Lewis Carroll that he tried to resolve it mathematically ) had more force in the past than it does today as did traditional notions of the value of painful penance or mortification of the flesh. Other psychological injuries are now also seen as detracting from the worthwhileness of life in an unacceptable way. There are now stricter limits than in the past to the degree of humiliation, indignity or degradation that can be legitimately imposed on an individual by an official agency acting with the moral support of the community. The stocks, the pillory, the parading of prisoners for public abuse are abolished and other milder sanctions of this



type are under attack. In Sweden not only the physical but the humiliating punishment of children by parents as well as teachers is forbidden. There has been a shrinking of the scale of deference such that those in authority can no longer demand fear and grovelling and those subject to them cannot be forced lower than a certain point. Again it must be stressed that this statement is only true of the exercise of legitimate authority in democratic countries. The gangster, the mob, the commissar or the ayatollah are not constrained in this way in their exercise of power.

It might also be noted that we are less inclined to penalize severely or judge harshly those who flee from pain. During the first world war, several hundred British soldiers were shot for cowardice or desertion, but by world war II this was out of the question.<sup>6</sup> During the second world war, only one American soldier Private Slovik was executed for cowardice/desertion and the fact that his sentence was not commuted was later the subject of moral protest.<sup>7</sup> Similarly our treatment of suicides and attempted suicides of "escape" (as distinct from, say, "honour" suicides) has become more lenient. Suicides are regularly described as occurring "while the balance of mind was disturbed" on the flimsiest of pretexts to absolve them from blame and to protect their families from shame or accusation. In Ireland where suicide is still regarded with horror, coroners have been forbidden to bring in a finding of suicide at all, so that the 'official' suicide rate for 1985 was zero.<sup>8</sup> This is simply a way of avoiding pain, blame and shame in each individual

case while retaining the general condemnation of the act of suicide. Attempted suicides likewise have come to be treated as a 'cry for help' rather than a piece of failed wickedness.

The change in the way suicide is regarded and responded to in those modern societies influenced by the Christian tradition is a relatively uncontroversial instance of some of the general trends discussed in this paper. In England suicide which had been a criminal offence for a thousand years (since the time of King Edgar) ceased to be so only in 1961. The suicide was ignominiously buried at a cross-roads with a stake through his body and a stone on his face as late as 1824 and even after that until 1882 a suicide had to be buried by night.<sup>9</sup> Even in 1961 a suicide was not entitled to Christian burial according to the law of the established church.

The change in the law was made because this national society was no longer willing to use the criminal law to uphold a particular view of the sanctity of life in view of the distress so caused. The then Lord Chancellor in introducing this reform in the House of Lords on behalf of the Conservative Government, declared:

"The suicide has put himself beyond the reach of punishment; the existence of the offence in our criminal law has not proved an effective deterrent to others as over 5,000 suicides a year are known to the police in England and Wales. And the continuing criminal character

of the conduct does nothing but add to the distress  
and pain of the relatives and friends of the deceased  
 ... a further 25,000 attempts are made and concealed  
 because of the social and criminal stigma attaching to  
 the act ... The stigma of having been subject to the  
 criminal law does sometimes cause real harm and distress;  
 and there is not infrequently added the stigma of having  
 been in prison."<sup>10</sup>

Although there was no opposition to the reform which was  
 in general supported by the Churches, the 1961 Act was a definite  
 departure from the previous official approach taken to human life.<sup>11</sup>  
 The Lord Bishop of Carlisle though welcoming the reform on  
 compassionate grounds was for this reason uneasy:

"Now while Clause 2 helps to protect society, I  
 am not satisfied that it (Clause 2 made it still a crime  
 to encourage or assist or tempt someone to commit suicide)  
 is sufficiently strong to uphold the sanctity of life...  
 To abrogate the rule of law whereby suicide is a crime  
 is right; but in doing so there must in my judgement be  
 enough left in the law/convey <sup>to</sup> to everyone that to take  
 life, one's own life is literally a dreadful thing contrary  
 to natural instinct and contrary to natural law. I am  
 satisfied as I say that Clause 2 is strong enough to show  
 how dreadful it is to assist in helping another to take  
 his life - it does that; it prescribes the penalty - but  
 I submit that it is not strong enough to show how dreadful

and contrary to nature it is to take one's own life ... I am not even satisfied with this report<sup>12</sup> produced by a Committee of my own Church, because I feel there is not enough witness borne in it to what I call the sacredness of every human life ... I want to see some notice taken of the unfortunate person who attempts suicide and fails, and that he or she is given medical treatment. If that provision were in the bill the law would be administering not punishment, but compassion through medical treatment. At the same time it would be seen that the law took cognisance of an attempt to commit suicide and thus would be a dissuasion against suicide which all can understand ... I want the law to be clearly dissuasive against the unnatural act of taking one's own life ... I feel sure that I shall receive all the help of noble Lords versed in the law to formulate such an Amendment. It may be very difficult but I sometimes think that all things are possible with lawyers."<sup>13</sup>

It is difficult not to feel a certain sympathy with the Bishop's faith in the ability of lawyers to face in two opposite directions at once. The status of 'dissuasive' medical treatment aimed at upholding the view that a patient's past conduct is a dreadful offence against nature, does, however, seem problematic particularly if there is no (other) reason for doubting his or her sanity. What the Bishop was trying to avoid but other supporters of the change were willing to embrace, was the advance of the view that it is more important to reduce distress than to uphold the

sanctity of life and that we should feel only sympathy and not moral disapproval for the particular individual who finds life so unworthwhile as to seek to end it. Yet this in fact is the view that has tended to prevail and has led to the formation and growth of the Samaritans, an organisation whose name testifies to its Christian origin. Ironically the growth of a more sympathetic, less judgemental attitude to suicide has resulted in a growth not in suicide (the official suicide rate for England and Wales which is anyway quite low has fallen since 1961 and this is probably a 'real' fall not a mere quirk of recording) but in attempted suicide. The law probably never did deter those who were serious enough to succeed in committing suicide, but it may well have deterred attempted suicides most of which were never intended to succeed. This particular method of emitting a 'cry for help' was less likely to be chosen in the past when it carried the stigma of criminality than it is today when it produces the desired sympathetic response from others.<sup>14</sup> However, it is doubtful whether this fact is of any practical significance for to treat the particular individuals who attempt suicide (whether 'just as an attempt' or as a 'real' suicide that for some reason failed) <sup>harshly</sup> in order to reduce the incidence of similar future hypothetical acts (which are both a nuisance and an affront to traditional notions of the sanctity of life) is now unthinkable.

The abolition of capital punishment in Britain in 1965 and its concomitant and roughly contemporary withering away in the United States cast an interesting light on the way in which the

growing unwillingness to inflict the suffering of death on a particular known individual impinged on more traditional notions of the sanctity of life. In a sense there is nothing 'cruel and unusual' about inflicting the death penalty for murder. We must all die one day and execution is in itself probably quicker and less painful than the more common causes of death such as cancer and heart disease that will claim most of us. Furthermore, levels of murder and violent crime have increased and are now a much more threatening possibility for the ordinary citizen than, say, thirty years ago. Yet we shrink from executing murderers in a way that our ancestors did not. In the United States there are 20,000 murders a year but only a handful of executions.<sup>15</sup> The legal barriers that the prosecution has to negotiate between conviction and execution are such that the laws decreeing a crime capital are almost inoperative and it costs less to imprison a murderer for life than to steer a case through endless and costly legal hearings.<sup>16</sup> Indeed the comment has been made that the American people want capital punishment without executions.<sup>17</sup>

The same point may be made in relation to the evolution of capital punishment in Britain. Traditionally capital punishment for murder was seen as just retribution. Those in charge of the system the judges, police and prison officers, though they may have disliked the actual execution, could link it to the prior death of the victim and so could the jury that convicted and the Home Secretary who refused a reprieve. It was as if the images of the sufferings of the murderer's victim were superimposed upon

those of the condemned murderer and blotted them out. Whenever the issue was debated those hanging judges who sat in the House of Lords would enthrall their audience with tales of 'horrible' murder<sup>18</sup> and the death penalty would be retained.

The human image of the suffering of the condemned person awaiting certain death was and is nonetheless a potent one and it is not surprising that it has been used to powerful effect by writers of the calibre of Dostoyevsky, Dickens, Camus, Stendhal.<sup>19</sup>

For Dostoyevsky who had himself been sentenced to death for political reasons, taken to the place of execution and as a macabre joke only then told that his sentence had been commuted:

"Yet the chief and worst pain is perhaps not inflicted by wounds but by your certain knowledge that in an hour, in ten minutes, in half a minute, now this moment, your soul will fly out of your body, and that you will be a human being no longer and that that's certain - the main thing is that it is certain... Take a soldier and put him in front of a cannon in battle and fire at him and he will still hope but read the same soldier his death sentence for certain and he will go mad or burst out crying. Who says that human nature is capable of bearing this without madness? Why this cruel, hideous, unnecessary and useless mockery? Possibly there are men who have sentences of death read out of them and have been given time to go through this torture and have then been told, 'You can go now, you've been reprieved. Such

men could perhaps tell us. It was of agony like this and of such horror that Christ spoke. No you can't treat a man like that." <sup>20</sup>

Similarly, Dickens in The Tale of Two Cities his novel of the French revolution where:

" Another pause of oblivion and he (Darnay) awoke in the sombre morning unconscious where he was or what had happened, until it flashed upon his mind, 'This is the day of my death!'... The hours went on as he walked to and fro, and the clocks struck the numbers he would never hear again. Nine gone for ever ten gone for ever, eleven gone for ever, twelve coming on to pass away..... Twelve gone for ever." <sup>21</sup>

It was these images that haunted the abolitionists and led to the taunt of sentimentality from those upholding capital punishment. It is perhaps significant that though the judges who had had a professional life full of the experience of sentencing murderers were all in favour of retaining capital punishment there were one or two exceptions among the almost equally strongly retentionist<sup>22</sup> ex-military men and ex-colonial administrators. These were men who had had to take on, in the course of their careers, a close and unwelcome responsibility for administering capital punishment. The contributions of Lord Raglan and Lord Douglas of Kirtleside to the debate on the capital punishment section of the Criminal Justice Bill of 1948, speak for themselves:

Lord Raglan: I was at one time what was called an Inspector in the Southern Sudan. It was part of my duty to try all



criminals. I remember in particular a case in which one of my police had murdered a prisoner. After I had heard the case, I thought to myself: "If this man is to be hanged, I shall have to see him every day that I am in the station for at least two months before the sentence is confirmed. I shall then have to make the arrangements myself and supervise his hanging." I sent a report of the proceedings to the Chief Justice with a suggestion that the sentence be commuted. In due course, the sentence was commuted.<sup>'23</sup>

Lord Douglas of Kirtleside: 'I think you will agree that I have a right if not a duty, to speak to you in the debate. Until recently I was Commander-in-Chief and Military Governor in Germany, and, as such, I have had more experience of one aspect of this very difficult subject than any member of this House - or, probably, any other British subject. During my time in Germany I had to deal with several hundred death sentences, not only death sentences on war criminals, but also death sentences on Allied nationals, condemned by Allied Control Commission courts, and on Germans convicted by German courts of murder and condemned to death. Therefore, as I say, I think I can claim a good deal of experience on one aspect of this matter. That, obviously must to some extent colour my views. I commuted the as many of/sentences as I conscientiously could, but, of course as an integral part of the legal machine, I had to confirm the death sentences in cases in which there was no good reason for commutation. I must say that, eventually, I became sickened

with the magnitude of the legal slaughter involved.

In fact, I may say that that was one of the reasons which caused me to resign my position in Germany.

You may say that this is pure sentiment, but I am not so nervous of being accused of being a sentimentalist as some of your Lordships appear to be.'<sup>24</sup>

Over time there was a shift in emphasis in Britain from retribution to deterrence as the basis for inflicting capital punishment.<sup>25</sup> The 1957 Homicide Act decreed that capital punishment should be applied to deterrable murders alone (e.g. murder in the course of theft or robbery murder of a police or prison officer, murder using a gun) and others would be non-capital including many of the types of murder the public regarded as the most heinous (e.g. sex murders, murders committed with deliberate cruelty or brutality, poisoning). Such a division of murders into categories was congruent with the tendency to move in a 'causalist' direction when deciding issues of law and morality and it was thought that this government-sponsored, deterrence-based, Archbishop of Canterbury-blessed compromise between abolitionists and retentionists was one that would endure.<sup>26</sup>

Yet a mere eight years later the British legislature abolished capital punishment altogether on the grounds that it could not be proven that capital punishment was an effective deterrent (i.e. more effective than alternative penalties).<sup>27</sup> The importance of the deterrence theme both in Britain and in the United States is indicated by the bitterness with which data purporting to prove the effectiveness

of capital punishment as a deterrant has been contested. Those against capital punishment have reacted with fear and fury at the appearance of econometric data purporting to show that each individual execution prevents several potential victims from being murdered.<sup>28</sup> The most honest view that one can take of the data on deterrence is an agnostic one, i.e. the matter has not been proven either way. However, in Britain in 1965 the abolitionists claimed vigorously and successfully that this uncertainty meant that they should be given the benefit of doubt. What I want to suggest is that there is an important asymmetry here between the perception of the person to be executed who is a particular known individual on whom suffering is to be inflicted and that of the lives saved because other would-be murderers are deterred which are seen as mere statistical human units. There is no direct link between those whose lives are saved and the condemned murderer who is being killed as a means to an indirect end. A few abolitionists had moral objections in principle to the murderer being used simply as a means in this way<sup>29</sup> as a deterrant pour encourager les autres but this argument was but rarely employed. Rather it was their inability to empathise with an abstraction, with an unknown person who was to be saved from being a victim that was crucial. True there was still the murderer's own victim but that person is by definition irrelevant to an argument about deterrence. The abolitionists were unwilling to execute a particular individual to save a hypothetical one.

Perhaps an analogy can make the nature of this asymmetry clearer. It is easier to justify expenditure on rescuing a person than on routine safety measures, easier to fund curative than preventive

medicine. The rate of return in lives saved per unit of expense in adopting safety measures or preventive health care is probably far greater but the immediacy of the duty to save a particular person already in danger of their life is what prevails.

The attitude of the judiciary in both Britain and America has also proved significant in that they have both in rather different ways proved unwilling to operate a system of capital punishment based on deterrence. In the British case the judges who had traditionally been strong retentionists switched to supporting the complete abolition of capital punishment rather than operate the deterrable/capital versus non-deterrable/non-capital distinction set up by Parliament in 1957 as we can see from the speech by the Lord Chief Justice in favour of abolition in the House of Lords in 1965:

Lord Parker of Waddington: 'My Lords, I fully appreciate that there are many of your Lordships who wish to take part in this debate and therefore I will be brief. I suppose it is probably true that no one, perforce and not by choice, has seen more of the many types of murder and of the circumstances in which they are committed than the holder of my office. I am sure that my noble and learned friend Lord Goddard would agree. For this simple reason that nearly every murderer, certainly every capital murderer, appeals to the Court of Criminal Appeal, over which the Lord Chief Justice is the almost constant presider. Therefore, I hope you will bear with me if I express my views - and I am afraid rather strong views - on this proposal for the further abolition of the death penalty.

I may say at once that personally I am in favour of further abolition, and I shall vote for the Second Reading of this Bill. But, at the same time, I shall certainly vote against the Bill finally unless on the Committee stage suitable safeguards are inserted. I am in favour of abolition not, I am afraid, on any moral ground, but merely because of the working of the Homicide Act 1957. I confess, looking back eleven years, that if anybody had then said that I should come out as a full-blooded abolitionist, I should have been surprised. But during that time, and particularly during the last seven years when I have held my present office, I have seen the complete absurdities that are produced, and have been completely disgusted at the result... They (The Judges) sit in court: they see where the shoe pinches; they see where justice does not appear to be done, and when it is not done. I think I can say that all the Judges are quite disgusted at the results produced by the Homicide Act.<sup>30</sup>...

For seven years I have presided in the Court of Criminal Appeal, to whom almost every capital murderer appeals, and for the last four of those seven years I have been so disgusted (if I may put it that way) with the anomalies that arise, with the injustices that are done as between man and man - one man is hanged and another, equally blameworthy, imprisoned for life - that I determined four years ago that something ought to be done and I was in favour of abolition.<sup>31</sup>

In America the same unwillingness to execute a particular individual for the sake of deterrence has taken constitutional forms for instance through an insistence on 'equal justice' i.e. given that the lower courts are only willing to apply capital punishment in a few cases even though a capital offence has been committed the Supreme Court insists that the selection of this tiny minority of murderers for execution must be justified. It is not easy to use the principle of deterrence (other than by specifying broad categories as in the British 1957 Act) to say which individuals should be selected for execution. One well publicised execution for a broad category of murder is probably as good as another and it could be held that those who are to be executed have no grounds for complaint since they committed an offence known to carry the possibility of capital punishment. The fact that others in similar circumstances have been given a lesser penalty is simply their good fortune and has no bearing on the case of the person to be executed. However, the American Supreme Court has been unwilling to regard particular individuals in this way and to impose arbitrary suffering on them. The Court has laid down strict rules regarding the selection of individuals for execution that have reduced even further the chance of a murderer being executed. Indeed, the chances of execution are now so small (20,000 murders a year a mere handful of executions)<sup>32</sup> that the deterrent effect upheld by the state legislatures as the justification of capital punishment must in practice be quite negligible.

In effect what we see here is not just a balancing of the

sanctity of life against the view that suffering makes life less than worthwhile but an incorporation of the latter into the former in a way that alters its meaning. What we now regard as sacred is the particular individual person with expectations, hopes, relationships, understanding. We are no longer prepared to inflict the degree of suffering involved in setting a fixed date for the termination of the life of that individual. Empathy rather than mystery, a wish to avoid the inflicting of pain inevitable in the taking of life under these circumstances, rather than respect for life as an abstract principle has come to prevail in our view of capital punishment.

A similar set of changes underlie the way in which most western societies have come to view abortion. In Britain under Section 58 of the 1861 offences against the person Act it was laid down that:

"Every woman being with child who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing or shall unlawfully use any instrument or other means whatsoever with the like intent... shall be guilty of an offence, and being convicted thereof shall be liable ... to imprisonment for life..."<sup>33</sup>

I have quoted this section to indicate that a very severe penalty could be imposed on the woman herself for trying to destroy the foetus within her. No one else need be involved nor was it a measure protective of the woman herself for there was no law hindering a woman who was not pregnant from wrecking her health by ingesting

anything she chose. Yet today drug companies are engaged in research to produce an abortifacient harmless to the mother that will probably go on general sale. Even if the doctors and pharmacists were to conspire to protect their position as privileged gate-keepers, a law solely intended to restrict access to the means of abortion would be unenforceable.

The key turning point was the British Abortion Act of 1967 which permitted abortion when it could be shown:

" (a) that the continuance of the pregnancy would involve risk to the life of the pregnant woman or of injury to the physical or mental health of the pregnant woman or any existing children of her family greater than if the pregnancy were terminated or, (b) that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

In determining whether the continuance of a pregnancy would involve such a risk of injury to health as is mentioned in paragraph (a) of subsection 1 of this section, account may be taken of the pregnant woman's actual or reasonably foreseeable environment."<sup>34</sup>

What in effect is being stated here is that the degree of suffering involved to existing fully formed individuals with plans hopes, expectations, awareness caused by a pregnancy going to term may be such as to justify ending the life of the foetus. In such a case the new potential person's existence is judged to be sufficiently



threatening to others as to be in an overall sense not worthwhile. In the case relating to handicap it is possibly also implied (by the fact that it is spelled out separately) that the degree of suffering or idiocy these persons would undergo if born is such that their own lives would not be worthwhile and should not occur. (It must, of course, be stressed that these rules are merely permissive).

Once again the concern for particular known individuals and for the worthwhileness of their lives takes precedence over a hypothetical person, this time one that has not yet properly come into existence. Suffering and idiocy are judged in advance to be factors rendering life less than worthwhile. We are no longer prepared to force women and their families to undergo a less than worthwhile life in order to uphold a particular view of the sanctity of life. It is extremely unlikely that this view will be reversed either in Britain or in the other West European countries that have liberalized their laws.

There is a further crucial point that needs to be made about the way in which a woman's life can be rendered unworthwhile by an unwanted pregnancy (to the point where in the past she would have been prepared to seek a dangerous and illegal back-street abortion rather than go through with it) that is both obvious and yet often fudged or evaded in arguments about abortion. I refer to the fact that there are strong natural forces and social pressures that come close to compelling a woman to bring up the child born to her. The denial of an abortion probably means in effect that the woman is given an eighteen year sentence in child-care which if unwanted

is as great a hindrance to a worthwhile life as a wanted child can be a source of worthwhileness.

This point is glossed over in the crass demand of the feminists for a woman's right to an absolutely free choice at any stage of pregnancy which would in principle (though not often in practice because the vast majority of women have more sense than the feminists) permit a very late abortion for a trivial reason. The idea of freedom to choose must of necessity permit people to make 'bad' choices including, say, the woman who wants rid of a normal pregnancy at seven months when in another two months she will cease to be pregnant anyway. It is very doubtful whether it can be right to abort a normal foetus which at this stage is nearly a viable baby simply so that the mother may avoid the last two months of a normal pregnancy where no complications are expected. The argument that no one should be compelled to provide a life support system for someone else does not seem at all convincing in such a case for the situation is not analagous to the nature of duties of assistance and succour between strangers but to those between mother and child.

The reason why a late abortion of a normal foetus is sometimes regarded as permissible is because of the peculiar strength of the tie between mother and child once the child is born. If the woman wishes to escape from the clutches of an unwanted offspring she must do so by means of abortion, otherwise it may be too late and she is trapped until the child grows up. We can see the force of this argument both in the growing tendency for mothers of illegitimate children to keep them rather than have them adopted or dump them as foundlings

and in the disputes that have arisen because surrogate mothers have sought to break their contractual agreements and keep the children born to them. It is the strongest argument in favour of freedom of choice in abortion yet it is one that the feminists can only employ uneasily for it rests on the fact of nature that anatomy is destiny that they so vehemently seek to deny.

Yet the bad faith of the feminists is matched by the bad faith of the pro-life lobby who are also unwilling to admit the magnitude of the sentence imposed on a woman refused an abortion and especially in the case where it is known that the foetus is severely handicapped. Exceptional cases of families that have apparently overcome the problems involved in having and bringing up a child condemned to suffering or idiocy are paraded by the pro-lifers and the misery of countless other mothers and families ignored.<sup>35</sup> If the mother could simply walk away from the problem immediately after the birth and forget about it and if severely damaged incomplete infants were automatically made a collective not a family responsibility then the issues relating to the abortion of such foetuses would need to be argued about on a different basis.<sup>36</sup> It would, for many people, still be reasonable to reduce human suffering and the number of less than worthwhile lives by permitting and indeed encouraging abortion of the defective foetus but the arguments would not be as compelling. The reason that there is such strong public support for abortion on the grounds of severe defect or handicap relative to abortion for other reasons<sup>37</sup> and the reason it is specifically written into the English and Welsh legislation is that most people

do not wish to impose an often much less than worthwhile life on particular mothers and families. Even if state or charitable provision were better and there were a strong social presumption in favour of the abandonment of maternal duty in such cases (neither of which finds favour with or funding from the pro-lifers) most people would prefer to permit abortion rather than force such a harsh choice on the mother.

Although the present liberal abortion laws in England and Wales are only about twenty years old, the law of those countries has always recognized the peculiar strength of the tie between mother and child both as a positive factor making life worthwhile, (a kind of creativity, an affectionate relationship, a continued link to others after death) and as a potentially crushing and cramping responsibility. In England and Wales, a country where even self-inflicted abortion could be penalized by life imprisonment and the death penalty for murder was mandatory there has always been a tendency to interpret and apply the law leniently where a distraught mother has disposed of a foetus, a new baby or even an older child. Thus long before 1967 it was "not the practice to prosecute the mother"<sup>38</sup> in cases of illegal abortion, a view that is impossible to justify except in terms of sympathy with her predicament. Similarly:

" it was practically impossible to get convictions of murder by mothers of their young children because of the disapproval by public and professional opinion of a law which regarded such killings as ordinary murder. Where

a conviction was obtained the judge had to pronounce a sentence of death which everyone except perhaps the prisoner, knew would not be carried out. A number of reasons were advanced why infanticide should be considered less reprehensible than other killings: (i) The injury done to the child was less, for it was incapable of the kind of suffering which might be undergone by the adult victim of a murder; (ii) the loss of its family was less great; (iii) the crime did not create the sense of insecurity in society which other murders caused; (iv) generally the heinousness of the crime was less, the motive very frequently being the concealment of the shame of the birth of an illegitimate child; and (v) where the killing is done by the mother, her responsibility may be reduced by the disturbance of her mind caused by the stress of the birth."<sup>39</sup>

In 1922 such a killing was treated as not murder but the lesser crime of infanticide if the child were 'newly born' and in 1938 this was extended to the case of a child under the age of twelve months. The principle reason stated is diminished responsibility as a result of birth or lactation yet in most cases "the relationship of incomplete recovery from the effects of childbirth or lactation to the child-killing is remote".<sup>40</sup> The suspicion here must be that the law has been constructed and maintained in such a way as to fudge and blur certain issues. Rather we have yet another case where the sad plight of a particular individual woman with a full capacity for human suffering faced with a long unwanted burden

exacts a degree of sympathy and thus of moral concession, whereas the child killed lacks a similar capacity for suffering by reason of its extreme immaturity. Even where a mother prior to 1957 killed a somewhat older child of her own and was convicted of murder, she was unlikely to be executed. Between 1900 and 1949 1210 persons were sentenced to death in England and Wales and 553 of these sentenced were commuted or respited i.e. 45.7%. However, in the case of the 130 women so sentenced, 90.8% of the death sentences were commuted or respited.<sup>41</sup> This is not so much the outcome of a discrimination by category, but in the words of the report of the Royal Commission on Capital Punishment of 1953:

" among the comparatively few murders committed by women the proportion of heinous cases is far smaller than it is among the much larger number of murders committed by men. The great majority of murders committed by women are cases of women killing their children in conditions of misery and stress where a reprieve follows almost as a matter of course. Indeed of the 130 women sentenced to death for murder 102 had killed their child. Two of the 130 were insane and one had her conviction quashed on appeal. In 116 of the remaining 127 cases or 91% the sentence was commuted."<sup>42</sup>

It can be seen from the above that sentiment has long been positive towards a mother trapped in an intolerable situation. Although women with several small children are unlikely to commit suicide because their children bind them so tightly into a net of duties, obligations and relationships, circumstances such as

poverty, bad housing, social isolation, an unsympathetic and uncommunicative spouse, plunge them into severe depression more frequently than probably any other group.<sup>43</sup> Unless they then neglect or mistreat the children their plight is invisible and attracts less concern than that of other groups who manifest their discontent in more voluble, aggressive and, indeed, violent and anti-social ways. Children are in general rightly seen as a key source of pride, meaning, purpose, fulfillment, an extension of self in life and even after death, i.e. they make life worthwhile. Perhaps for this reason we are unwilling to look too closely at those cases where the opposite is true or to think about remedies.

The liberal view taken of abortion in Britain and, indeed, in other western countries may be contrasted with the difficulties placed in the way of those doctors and scientists experimenting on human embryos. In the British Warnock report of 1984, it was recommended that no experiments should take place on human embryos more than fourteen days old. Indeed, at that point they either had to be placed in a womb with a view to being the source of an ordinary pregnancy or else destroyed. In the United States where there are no restrictions on abortion during the first two trimesters the rules restricting experimentation on embryos are even more strict. Given that experiments on embryos offer great benefits in the growth of knowledge and techniques that can be used in the cure of infertility, genetic based diseases and defects, cancer and senility and in the future development of organ and tissue transplant, it seems odd that there should be strict limits here particularly when

those relating to abortion are now so weak. This contrast again reflects the fact that each abortion may benefit particular known individuals viz the mother and her existing family, whereas the benefits of research on embryos will accrue to unknown persons at some unstated time in the future. Such persons are remote from our central concern with particular known individuals in a different way from the embryo but to a comparable extent.

What emerges from the various issues and controversies discussed above, is that there has been a shift in the way that western democratic countries legislate concerning the evaluation and worthwhileness of life. At the centre of their present concern is the wish to avoid and prevent as far as possible the infliction of a heavy burden of suffering on any particular individual in that society. It is an outlook that commands very wide assent but it has also led to intense controversy when applied to particular problems notably abortion, but also the humane withholding of medical treatment from newly born severely handicapped babies and voluntary euthanasia. Here two conflicting views about the worthwhileness of life collide most violently. Those who see a pain-racked existence or permanent idiocy as detracting utterly from the worthwhileness of life see voluntary euthanasia or the withholding of medical care from severely handicapped babies<sup>45</sup> as permissible and in the case of the abortion of a severely malformed foetus, are willing to make the judgement that it could not lead a worthwhile life if born. Indeed, in the case of abortion, the judgement is made that the pain caused to the mother or her existing children by allowing the pregnancy to go to term is a valid reason



for eliminating the foetus because the foetus lacks the capacity to feel pain, harm, grief, misery, that is the mark of a fully formed sentient human being. Thus life can be sacrificed to the worthwhileness of life, a view that is anathema to the 'pro-lifers'.

What is at risk as far as the pro-lifers are concerned is an entire Weltanschauung. Abortion in the name of harm avoidance is a symbolic threat to an entire moral outlook that is also in danger for other reasons. Ralph Potter has noted that -

"At stake in the abortion debate is not simply the fate of individual women or even the destiny of individual nations and cultures ... Abortion does not merely contradict specific mores and moral teachings pertaining to sexuality, marriage and procreation or endanger a system of law built upon 'respect for life'. It implies the rejection of a world view which has sustained a way of life, a mode of being in the world, a pattern of response to the human condition. Abortion is a symbolic threat to an entire system of thought and meaning."<sup>46</sup>

In the modern world that has condoned abortion, the traditional -

"willingness to accept and transcend allotted afflictions through the power of redemptive suffering has faded in public consciousness to the point that it can seldom induce willing imitation. For many people there is simply no meaning in putting up with an unwanted circumstance when recourse is available (to abortion) without a high probability of temporal retribution."<sup>47</sup>

The same point has been made in a different way by Kristin Luker in her empirical study of abortion activists -

"pro-choice people do not see suffering as either ennobling or as spiritual discipline. In fact they see it as stupid, as a waste and as a failure, especially when technology exists to eliminate it .... given their ability to alter Nature, it is immoral not to do so especially when those activities will diminish human pain."<sup>48</sup>

We are now witnessing a clash between two incompatible views of how to deal with suffering. Historically, human suffering must have appeared and indeed was an inevitable and major part of life which might be modified and alleviated by good works but in general had to be accepted as a permanent and largely unchanging fact. Much of traditional religious teachings in both Europe and Asia and of secular ethics placed the acceptance and transcending of suffering at the core of their moral philosophy. 'What can't be cured must be endured' is albeit in very different ways a central belief of Roman Catholics, Hindus and Buddhists alike. It is but a short step from this view to the idea that suffering conveys benefits on the sufferer. For the Roman Catholic adversity and affliction are believed to inspire moral growth and are the school of virtue. Sufferers are able to cultivate wisdom, detachment, quiet acceptance of God's mysterious ways, patience, and nobility. For the Hindu, suffering is a part of the endless cycle of rebirth, a punishment for the sins of previous lives, a purgatory before future ones and can only be escaped by the enlightenment that follows a complete

detachment of self from the illusory material world, its appetites and emotions. In these terms even the suffering of an animal may be justified. In the 1920s Gandhi was strongly criticised by the orthodox Jains of his home state of Gujarat because he permitted the members of his ashram to kill an incurably sick or injured calf to save it from further suffering. For the Jain pro-lifers, this was a breach of the Jain and Hindu belief in non-violence and non killing. The mercy killing of an animal was wrong in itself and also pointless because the calf was fated to a fixed quantum of suffering either in this life or the next. To kill it now was merely to store up more suffering for the calf's next existence. The quiet acceptance of suffering as fate is even more entrenched in the Hindu tradition, (from which Buddhism and Jainism are derived) than in pre-modern Christianity. Dihendra Narain, in his study 'Hindu Character' <sup>49</sup> indeed has stressed the contrast between the calm but pessimistic Hindu acceptance of suffering which leads to a mental withdrawal from the physical world of pain and frustration and the active search for this-worldly solutions of the Europeans (especially Protestants) and the Chinese. Indeed, some western intellectuals who feel alienated from the vigorous rational (but in their view self-defeating) pursuit of remedies for unhappiness that is at the centre of their civilisation, have been attracted by what they see as the calmer more contemplative acceptance of suffering in Hindu thought. It is a parallel to the tendency to disillusionment with the rational anti-mystery Protestant ethic felt by Max Weber towards the end of his life when he turned to the works of Tolstoy. <sup>50</sup>

The fear at the back of these intellectuals' minds is that the impatience with suffering engendered by the pursuit of cures will lead to a loss of meaning and purpose in life. That it is ethically dubious to propose letting others suffer to relieve their own existential pangs does not seem to have crossed their minds.

It seems likely both that the trends I have described will go further and the clashes of values will continue in relation to abortion, embryo experimentation, the 'benign neglect' of babies born with severe handicaps, voluntary euthanasia. The view that each individual should ideally enjoy a life that is free and pain-free which ultimately has its roots in the eighteenth century enlightenment has survived much controversy and is now strongly entrenched. Indeed, freedom and freedom from pain are now regarded as almost necessary conditions for a life that is worthwhile. Also people's expectations that their immediate environment should be subject to technical control that they may be free and pain-free have grown. In part this is the result of the improved capacity to conquer pain that is now available. During the last hundred and fifty years or so our capacity directly to alleviate both physical and mental pain has increased dramatically due to the discovery of anaesthetics, analgesics and anti-depressants. Before the pharmaceutical discoveries of the nineteenth and twentieth centuries, the only methods available for defeating the pain of surgery, toothache, arthritis, gout, cancer, injury and depression, were the addictive and mind-clouding drugs opium and alcohol. The nineteenth century saw the beginnings of

anaesthetic surgery with the use of chloroform, ether, nitrous Oxide and non-addictive painkillers with the discovery of aspirin. Before these discoveries the surgeon, the dentist, childbirth, were to be dreaded as sources of pain and little could be done soberly to relieve the agony of chronic illness or severe injury or even the minor aches and pains of everyday life. Similarly, it is "depressing" to read about the sheer total helplessness that physicians and psychiatrists felt when confronted by patients suffering from severe and, indeed, often tormenting depression before they began to acquire their present techniques for chemical intervention, most of which have been available for less than 40 years.<sup>51</sup> Although much remains to be achieved, it is not unreasonable to speak of the events of the last 150 years as the pharmaceutical conquest of pain. The importance of these changes to sufferers and potential sufferers has ensured that there has been little effective opposition to them by those who believe that pain is of value as a school of endurance or else a Divine infliction that it would be impious to tamper with. Very few women for instance insisted on experiencing the pains of childbirth as laid down in Genesis as a punishment for Eve after Queen Victoria had set them a well publicised anaesthetic pain-free example. It may be that today natural childbirth is potentially safe, relatively painless and more fulfilling for many mothers, but in Victorian England, the choice was only more pain or less pain, and when the latter became available it was chosen. Along with the development of pain-killers (the word itself is significant) has grown the belief that pain ought to be killed. As inevitable pain has become avoidable so too we have become more reluctant to approve its infliction by human agency in

the name of morality or legitimate authority.

Both the growing use of pharmaceutical techniques against pain or depression and the accompanying world view that sees enhanced control over life as a boon have their critics. The problem the critics face is that their reasoned philosophical objections are undermined by their practical impotence. They can point to the frightening errors that occur as a result of over-confident or over-enthusiastic pharmaceutical intervention but they have no answer to the question - 'If you can do better why didn't you do so before'. For every placid sage or resigned saint in the past there were countless devils of pain, suffering and insanity that could not be cast or meditated out. Also the devotees of technical progress are now trying to find ways of curing, or at least alleviating, senility that the old may be saved from a return to a helpless existence of mewling and puking in the nurse's arms and mere oblivion, and live to the end of their days with teeth, eyes, taste and everything albeit supplied by man, rather than nature. The aim of such research is not to destroy 'useless eaters' but to enable them to be of use to themselves and to savour more than mere eating, and its most controversial aspect is likely to be the use that is made of foetal tissue to help achieve these goals. These are the cards and parts that those who see a worthwhile life as free and pain-free will play once again.

1. See Ninian Smart
2. See Cartoon by Karl Arnold (1932) in Simplicissimus vol.37 No.7 May 1932. Frederick the Great a traditional authoritarian had said, "In my state every man can be happy in his own way". Arnold ascribed to the totalitarian Hitler the slogan "In my state every man can only be happy my way". For cartoon and notes in English, see Fritz Arnold (1984) Simplicissimus and the Weimar Republic. Munich, Goethe- Institut.
3. See Christie Davies (1975) Permissive Britain social change in the 'sixties and seventies, London, Pitman. pp.220-1. For a more recent example involving both the minimising of suffering and irreversibility, see debate on Prohibition of Female Circumcision. House of Commons 19 April 1985 cols. 581-5.
4. See the attack on the view of the state in General Friedrich von Bernhardt (1941) Germany and the next war, London, Edward Arnold pp.24-5.  
  
Unfortunately, I have not been able to trace the original statement of this view which he ascribes to Von Humboldt which may be the rather different view of the night-watchman state as "insurance" only in the sense of protecting life, person and property against attack by others and upholding contracts.
5. See Christie Davies (1975) Permissive Britain, London, Pitman; Christie Davies (1978) 'How our rulers argue about censorship?' in Rajeev Dhavan and Christie Davies (eds) Censorship and obscenity, London, Martin Robertson; Christie Davies (1980) Moralists causalists sex law and morality in W.H.G.Armytage R.Chester and John Peel (eds) Changing Patterns of Sexual behaviour, London Academic. Christie Davies, How people argue about abortion

and capital punishment in Europe and America and why  
(ICUS 1986).

6. See William Moore (1979) The thin yellow line, London, Leo Cooper.
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8. See report by Joseph Joyce (1985) in The Guardian, London 4th November, regarding a decision of the High Court in Dublin April 1985 and its consequences.
9. See Lord Denning speech on the Suicide Bill, House of Lords 2nd March 1961. cols. 262-4.
10. Lord Chancellor speech on the Suicide Bill, House of Lords, 2nd March 1961 cols. 247-9.
11. See speech by Lord Silkin on the Suicide Bill, House of Lords, 2nd March 1961, col.254.
12. Report of the Anglican Church Assembly Board for social responsibility Ought suicide to be a crime?
13. Lord Bishop of Carlisle's speech on the Suicide Bill in the House of Lords, 2nd March 1961 cols. 258-62.
14. e.g. See Jean Baechter (1979) Suicides, Oxford Blackwell pp. 337-8.
15. See Hugo Adam Bedau (1982) The Death Penalty in America, New York, Oxford U.P. pp.24-5. In 1935 199 persons were executed in 1965 only 7.
16. See Barry Nakell (1982) The cost of the death penalty in Hugo Adam Bedau (ed) The Death Penalty in America, New York, Oxford U.P. p.241.
17. Gary Gilmore (a condemned murderer who wished to be executed) Quoted in David Pannick (1982). Judicial Review of the Death Penalty, London, Duckworth, p.160.



18. e.g. See Lord Goddard, the Lord Chief Justice's speech on the Criminal Justice Bill in the House of Lords, 28th April 1948, cols. 492-3. Also see the speech of Lord Teviot (not a law lord) on the Death Penalty (Abolition) Bill 10th July 1956, col.718.
19. See Albert Camus ( ) L'Etranger and Stendhal (Henri Marie Beyle) (1953, 1830) Scarlet and Black, Harmondsworth, Penguin p.489-93 and 497-509.
20. Fyodor Dostoyevsky (1955, 1869) The Idiot Harmondsworth, Penguin, pp.47-8 (David Magarshack's translation).
21. Charles Dickens (1967, ) The Tale of Two Cities, London Heron, p.406.
22. See Christie Davies, Religion politics and the Permissive legislation in Paul Badham (ed) In press.
23. Lord Raglan speech in House of Lords 1st June 1948 col. 74.
24. Lord Douglas of Kirtleside speech in House of Lords on 2nd June 1948 col.140-141.
25. See Christie Davies (1975) pp.27-43.
26. See Elizabeth Orman Tuttle, 1961, The Crusade against capital punishment in Great Britain, London, Stevens p.136 and Christie Davies 'Religious politics and the Permissive legislation'.
27. See Christie Davies (1975) pp.34-5 and Hansard 5th series, House of Commons, vol.704 col.908 and cols 939-40.
28. e.g. Isaac Ehrlich (1975) The Deterrant effect of Capital Punishment: A Question of Life and Death. American Economic Review, 65, 397. For an example of fear and fury, see Pannick's note on David Phillips research, p.65.

29. William Temple the Archbishop of Canterbury until 1945 took this view and was often quoted, e.g. see House of Lords 1st June 1948, col.44 and 9th July 1956, col.608.
30. Lord Parker of Waddington speech on Murder (Abolition of Death Penalty Bill in the House of Lords 9 July 1965 col.480-1.
31. House of Lords 12 October 1965 col.541. Also see note 30. Lord Waddington is explicitly recapitulating what he said on 9th July 1965 on the Second Reading debate. See also the speech by the Law Lord, Lord Morris of Borth-y-Gest 19th July 1965 cols. 535-8.
32. The ratio of murders to executions in the early part of the twentieth century was between 70:1 and 85:1. By the 1960s it had risen to 500:1 and the murder-death sentence ratio was 92:1, i.e. less than 1 in 5 sentenced were executed.
33. See A.C.Smith and Brian Hogan, 1978 Criminal Law (4th edition) London Butterworths p.342.
34. Smith and Hogan, p.345.
35. See M.Neil Macintyre (1973) Genetic Risk pre-natal diagnosis and selective abortion in David F.Walbert and J.Douglas Butler (eds) Abortion, society and the Law, Cleveland Case Western Reserve Press, and Helga Kuhse and Peter Singer 1985 Should the Baby Live, Oxford, O.U.P. pp.140-161, and pp.213-5.
36. In this connection see the interesting comment by Rabbi Immanuel Jakobovits (1973) Jewish views on abortion in Walbert and Butler (eds) p.114.
37. e.g. see L'interruption volontaire de grossesse dans l'Europe des neuf (1981) Institut National d'études démographiques. Cahier No.91. Paris Presses Universitaires de France p.13. In Belgium, a Roman

abortion laws,

Catholic country in the centre of Western Europe with restrictive/ the percentage of the population approving abortion in cases of a foetus known to be malformed were 76% to 77% in 1974-76 and even in Flanders 74.8% approved. Even if there was only a risk of malformation there was 55% approval. Only the case where the mother's life was in danger had a higher percentage approval. Rape and incest only gained between 69% and 73% approval of abortion and in the case of a mother under 15 only 45% to 48% approved. In the case of an unmarried pregnant woman only 27% to 33% approved abortion.

38. Smith and Hogan p.343.
39. Smith and Hogan p.338.
40. Smith and Hogan p.228.
41. See Report of the Royal Commission on Capital Punishment 1949-53, (1953) Cmnd 8932, London H.M.S.O. pp.13, 326.
42. Report of Royal Commission p.326.
43. See George W.Brown and Tirrill Harris, 1978 The Social Origins of Depression, a study of psychiatric disorder in women, London Tavistock.
44. See Report of the Committee of Inquiry into Human Fertilisation and Embryology (1984) Cmnd 9314, London H.M.S.O. See also A.T.H. Smith (1986) Warnock and after: the legal and moral issues surrounding embryo research in Mark Ocketton (ed) medicine ethics in the law AR SP Beiheft 32 pp.74-5.
45. See Kuhse and Singer pp.140-6.
46. Ralph Potter (1969) quoted in

47. Ralph Potter (1969) see note 46 p.25.
48. Kristin Luker, 1984 *Abortion and the Politics of Motherhood*, Berkeley, University of California Press p.189.
49. Dihendra Narain (1956) Hindu Character, Bombay, University of Bombay Press.