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The Historical Dimensions of Infanticide and Abortion: The Experience of Classical Greece

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Contemporary arguments over the human status of the fetus and the right of parents to dispose of their newborn infant have their roots in the classical world. Indeed, it could be said that as the practice of abortion and infanticide are becoming commonplace in the American family, we are returning to a pre-Christian moral universe. It is the purpose of this paper, therefore, to review the Greek experience on this matter. After all, the past may very well be prologue to the future.

Any inquiry into the practice of abortion and exposure should begin with Greek attitudes toward children. The importance of offspring should not be underestimated, for they not only provided the family's support, but they continued ancestral worship and served to retain all acquired property.¹ Without an heir, a man's holdings and religious obligations would be absorbed at once by the closest relation, regardless of personal animosity or friendship. The Greek legislators, as one would imagine, were particularly sensitive to the father's desire for his family's preservation and this is the principal reason for the abundance of legislation dealing with the guardianship as well as marriage of an heiress.

However, specific policies to facilitate marriage and legal offspring differed among the Greek city-states. Sparta, if we are to believe the ancient writers, had definite pronatal inclinations. According to Plutarch, bachelors were highly discriminated against, as it was considered a duty to provide the state with an assured source of military manpower. Aristotle notes that the Spartans enacted laws which

would relieve a man of his military obligations if he had three sons, and of taxation if he had four. In Athens, on the other hand, and, one assumes, in a majority of other states, such social engineering schemes were basically unknown.² Marital relations remained largely a matter of free choice, though we do occasionally hear of financial and other penalties being exacted for individuals who lacked both wives and children.

Since the Greek state, as a rule, did not enforce any duty upon a man to have children, the law did not interfere with the father's authority over his child, particularly the newborn. While there has been some debate as to whether the parental power of the Greek father was analogous to the Roman *patria potestas*, it is generally agreed that, at its birth, the Greek child was so completely in its father's power that it rested with him whether or not the child should be admitted into the family.³ He openly signified his intention on this during a ceremony which usually took place during the first week after the child's birth, at which point the child was named and proclaimed to be a legitimate offspring.

Explanation for Exposure

However, the father had no duty to take this step. He could, by himself or through his agent (i.e., a slave), have the newborn child "exposed," that is, abandoned wherever he pleased, without worrying whether anyone would pick the child up or whether it would simply perish. And though the finder of an exposed child might, at his discretion, treat it as a slave or free person, he acquired no rights over it and he could not even adopt it, since adoption was a joint transaction between the adopter and the adopted child's father or his representative.

An explanation for the exposure of legitimate children can be traced to economic considerations of the household. It should be noted that the agricultural productivity of the average Greek household was quite limited. Thus, a precarious balance existed between the demands for a sufficient number of children to continue the family line and the need to protect that same family from the dangers of being overburdened by too many mouths to feed and having its property divided to the point of nonviability. Given the liabilities associated with a daughter (i.e., dowry and chastity), females were no doubt more vulnerable than males to the act of exposure.⁴ Overall though, the highest proportion of exposed infants would have been those produced by unions formed out of wedlock and the bastards of slave girls and prostitutes.

It should be emphasized that there exists no reason to doubt that the Greek father had this absolute discretion of exposure and that this right was more than a clearly formal one. Even though no direct

evidence of this practice exists in current law codes (except for reference to a mother's right to expose her child on the condition that her divorced husband did not recognize the child), indirect confirmation of the act can be found in literature, mythology, and even the correspondence of the time.⁵

Although the indication given by all available evidence that exposure was not considered a criminal act in ancient Greece, was this always the case? Generally speaking, we can say that if the father had recognized the child as his, then it was considered to be a member of the family and thereby protected by the laws of the *polis*. However, to bring suit as a result of a breach of these rights would have been most difficult. For even if homicide were the most serious offense which could be committed in the *polis*, public officials could not initiate prosecution as this duty was laid solely upon the victim's family.⁶ In short, the child's relatives would have to file charges in the court against the father and challenge his authority and judgment. This was not an easy task by any means.

Although exposure was considered an acceptable method of disposing of unwanted children, it did not preclude other means to that end, such as abortion. In Aristotle's discussion in the *Politics* of whether the ideal state should enact legislation to prevent the exposure of children, "merely in order to keep the population down," he advised, "[T]he proper thing to do is to limit the size of each family, and if children are then conceived in excess of the limit so fixed, to have miscarriage induced."⁷

In coming to terms with abortion in ancient Greece, one should realize that it was indeed practiced (though we cannot say, with assurance, how frequently) and that the techniques used were quite advanced for the day. In fact, a majority of ancient medical texts gave specific instruction on how to produce miscarriages.⁸ If the Greek physician wished to bring about a miscarriage, he had the option of turning to intrauterine injections, gynecological operations, pessaries, vaginal suppositories, and a host of medications.

As for the use of abortion, no doubt the reasons were as varied as the people who employed it or recommended its use. Philosophers such as Plato and Aristotle saw it as a means of family planning, while prostitutes and courtesans viewed it as a convenient aid to their livelihood. Some physicians recognized the therapeutic value of abortion. With difficult pregnancies, writes one physician, "It would be better to destroy the fetus (to induce abortion) rather than to cut it out."⁹

As abortion was practiced in the Greek world, what of its "criminality"? In general, as a father could expose his newborn son with impunity, it would seem that the same would hold true for his authorization to abort the child before it was born. Moreover, since the *polis*, as we have seen, was not, in most instances, concerned with propounding a pro-natalist policy to the point of interfering with the father's

prior right in family matters, any litigation involving abortion would have been left to the affected household. The question then, is, what kind of situation need develop to provoke a family member to bring legal action in regard to abortion?

The answer to this problem depends partly on a comment made by Sopater, who remarked that the orator Lysias, in his discourse "On Abortion," was involved in a trial, "in which Antigene accuses his own wife of homicide, the woman being voluntarily aborted, and he says that she had, by aborting, impeded his being called the father of a son."¹⁰ The overall impression given by Antigene's accusations, is not that the fetus's "right to life" was violated by the abortion, but rather the father's right to his child, or more importantly, an heir. If this is correct, then it was the father, not the fetus, who was held to be the injured party, particularly his right to enhance himself with offspring.

Decisive Evidence Exists

Even though there does not exist a corpus of Greek legal cases from which one might draw reference when discussing the question of the criminality of abortion, there is nevertheless decisive existing evidence on this issue in Imperial Roman law.¹¹ It is significant that a vast majority of these abortion cases revolve around women who deliberately deprived their husbands of children and therefore were subject to legal sanctions. The crime of abortion was, in the courts, not the destruction of the fetus per se, but the fetus *qua* heir to the father. Thus it was the violation of the father's right to his child that would classify abortion as a "crime."

In ancient Greece, one could assume that the legal situation surrounding the criminality of abortion was similar to that in Rome. Basically, if a relation or father brought suit, the case would have centered on the family's, or more specifically the father's, deprivation of an heir. His wife, her physician, or even other family members conspiring to deny him his right to a child, could therefore be held accountable, provided that suitable evidence existed to justify the complaint.

The question which still needs to be addressed, is whether the fetus was considered a human being. As the concept of life revolved around the principle of soul, the determining factor of whether the fetus was considered human lay in Greek notions of ensoulment (i.e., animation).

This issue, however, is not as clear-cut as it seems, as the Greeks were not of the opinion that there was any one designated type of soul. They held that there were many varieties of soul, nutritive and sensitive, for instance, found not only among plants and animals but in the developing fetus as well. Aristotle, for one, believed that the fetus underwent an entire metamorphosis of souls, from plant to

animal soul before it attained the rational, i.e., human soul.¹² Thus, when Aristotle recommends that abortion should be accomplished before "sense (i.e., movement) and life (i.e., animation) had been in the embryo," we are uncertain as to whether he believed that human soul became "actualized" in the fetus at the time of motion.¹³

Theories relating to the entrance of soul into the womb were, in fact, as varied as the different classifications of soul. In the third century A.D. the philosopher, Porphyry once commented in a letter to a friend, that "the doctrine relating to the entry of soul into bodies in view of the production of a living being has filled us with an extreme uncertainty." According to Porphyry's analysis, one can either delay the entry of the soul until birth, or one can place its entry into the womb either at conception, the time of fetal formation or at the first fetal movement (40 days for a male fetus, 90 for a female).¹⁴

It is rather unclear which doctrine the ancient Greeks held to be the most plausible. Most likely the Stoic principle that the soul was produced at birth, with the infant's first breath, had the greatest following. After all, the word "soul" in Greek, *psyche*, is derived from *psycho*, to breathe. In any case, the Stoic doctrine did form the basis of Roman law on the legal standing of the fetus; basically that it was not a separate human being, "it being accounted as part of the mother's belly, like we see the fruit of trees is esteemed part of the trees until it be full ripe."¹⁵

With so many opinions and beliefs on fetal life, one can understand why the Greek courts, at least as far as the evidence indicates, did not take any particular stand in regard to this issue. Yet, one can be sure that in some small religious communities abortion was prohibited. The "mystery" religions, in particular those which held all life to be sacred, often made no distinction between fetal and human life.

The Hippocratic Oath, with its injunction against abortion, is now thought to have been written by such a group for its members who sought to enter the medical profession.¹⁶ It should be noted, that although the Oath was formally included in the Hippocratic corpus, its overall ethical prohibitions involving the use of poisons, abortives, and surgery were not in the least consistent with what we find in the other treatises, or with the realities of medical practice as revealed in the ancient literature. In short, the Hippocratic Oath was an esoteric document, quite isolated in its ethical code, and composed rather late in the Graeco-Roman world.

When medicine became increasingly identified with humanistic principles, physicians actually became concerned with the ethical stipulations of the Hippocratic Oath. The Roman physician, Soranos, mentioned that among his colleagues, "One party banishes abortives, citing the testimony of Hippocrates, who says: 'I will give to no one an abortive; moreover, because it is the specific task of medicine to guard and preserve what has been engendered by nature.'" ¹⁷ Thus by

the first century A.D., the practice of abortion was indeed being questioned by various physicians on moral grounds.¹⁸

As is known, with the advent of Christianity, both abortion and exposure were openly condemned. The early Church fathers concluded that the fetus was to be respected and valued as much as any human life outside the womb. Furthermore, they viewed abortion as a crime, regardless of the stage of fetal development.¹⁹ Though the state would be late in affecting legislation to that end, laws did, in time, exist to protect prenatal and newborn life. What we are seeing today then, is a continuation of that struggle to implement basic Judeo-Christian values. However, the "personhood" debate is far from being resolved.

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3. See A. Harrison, *The Laws of Athens* (Oxford: Clarendon Press, 1968); Alan Cameron, "The Exposure of Children and Greek Ethics," *Classical Review*, 46, 1932; H. Bolkestein, "The Exposure of Children in Athens," *Classical Philology*, 17, 1922.
4. On the precarious position of women see Sarah Pomeroy, *Women in Classical Antiquity* (New York: Schocken, 1975).
5. Willets, R., "The Law Code of Gortyn," *Kadmos*, Suppl. 1. In the Greek plays, be it a comedy of Aristophanes or a tragedy of Euripides, we often see the exposure of a child. Also many of the Greek gods and heroes were exposed at birth, such as Zeus and Oedipus. In a letter from Hellenistic times, a husband advises his wife, "I urge and entreat you to be careful of the child . . . if it is male, let it be, if it is female, expose it." B. Grenfell, *The Oxyphynchus Papyri*, Vol. 1 (London: Oxford University Press, 1904), p. 244.
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7. Aristotle, *Politics*, 7. 17. 15. However, he did advise the use of exposure for deformed children.
8. Moissides, Moses, "Contribution a L'Etude de L'Avortement dans L'Antiquite Grecque," *Janus*, 26, 1922. The most complete study on abortion in the ancient world is Enzo Nardi, *Procurato Aborto nel Mondo Greco Romano* (Milano: Giuffre, 1971). Keith Hopkins, "Contraception in the Roman Empire," *Comparative Studies in Society and History*, 1965, p. 8.
9. Aetios, *Medicine*, 18.

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11. Marcianus, *Digest*, 47. 4. 1.
12. See Aristotle's *De Anima* (On Soul) and the *Generation of Animals*.
13. Aristotle, *Politics*, 7. 16. 15. Also see Jane Oppenheimer, "When S... se and Life Begin: Background for a Remark on Aristotle's *Politics*," *Arethusa*, 1975.
14. Porphyry, *To Gauros*. Also see Plutarch's *De Placitis Philosophorum*.
15. *Ibid.*, 15. The Stoics held that the soul existed potentially within the body, waiting for the first infant's breath to actualize it through a cooling process. Plutarch, *Stoic Self Contra*, 1052.
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