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THE RIGHT TO LIFE AND MORAL UNCERTAINTY

The juxtaposition of the ‘right to life’ and ‘uncertainty’ in the title of my presentation might suggest either doubts as to the actual validity of the right in question or a lack of certainty about whether to respect the right to life in the case of some of its presumed subjects. Let me state already in the beginning that it is the human being that will be considered here as the bearer of the right to life. Thus – in keeping with the subject of the present conference – I will be speaking about the right to life in the context of modern bioethics. Nowadays, however, numerous authors dealing with bioethics consider the material object of this discipline so broadly that they make it comprise also non-human beings.¹ Yet in my opinion, the normative approach to non-human beings should become an issue for environmental ethics rather than for bioethics. Therefore, within the general problem of the right to life, I will discern and consider the human right to life. Although I do not advance the thesis that one is not obliged to respect the lives of non-human beings, I still hold that the normative status of humans is different from that of non-human beings (in the case of the latter one can still distinguish an inner hierarchy), and that for this reason the status of the rights granted to each group respectively is different.

Neither is it my intention to discuss the issue of whether the right to life actually belongs to the human being as such, and the reference to the term ‘uncertainty’ in the title of my presentation does not convey putting the validity of this right into question. The fact that everyone has the right to life is explicitly stated in Article Three of the Universal Declaration of Human Rights and there is no ethical system nowadays that would question this right. Moreover, the human right to life had been respected long before it was asserted in the Declaration, the *novum* of this document being its

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¹ In Polish literature on the subject, Tadeusz Ślipko perceives the object of bioethics so broadly [cf. Ślipko, p. 16].

stress on the word 'everyone'. In the historical perspective one can see that it was never the human right to life as such, but rather *everyone's* right to life, that was actually put into question. Hence no one will hold today that the right to life is doubtful in the case of people of a different nationality, race or confession. However, it has appeared that the advances made in the field of modern biology and the definitions of the human person that are at work in modern bioethics in certain circumstances have become reasons for questioning the status of the human person as a bearer of the right to life. Therefore, what is being questioned is not everyone's right to life, but rather the fact that each being that is human in the biological sense with no exception deserves to be considered as human. Once the term 'person' enters the debate, we will deal with the following issue: Is every human being – a being that is human in the sense of belonging to the species of *Homo sapiens* – a human person? This is the sense of the uncertainty expressed in the title of my presentation in reference to the right to life. Describing human beings as human persons is tantamount to granting them a special moral status that makes them subjects of moral rights, including the right to life. This is how the term 'everyone' is understood in the Declaration of Human Rights, whose authors did not make use of the term 'human person' due to its philosophical entanglement.

Neither do I intend to enter the intricate controversies over various definitions of the human person used in modern bioethics. Let it suffice to say that many of these definitions (which derive from the separation of the thought from the body introduced by Descartes and dwell on the practical definition of the person proposed by Locke) ultimately adopt a descriptive attitude by enumerating a set of features that must be exhibited by a human being if it is to be granted the status of a human person. The most significant of these characteristics are self-consciousness and the ability to express oneself in a sensible and free way. If the validity of such definitions of the human person is to be accepted, human beings at their early developmental stages, as well as those showing severe mental disorders, cannot be possibly seen as persons, that is as subjects that enjoy the right to life. Once we have adopted the view that the right to life applies to persons exclusively, taking the lives of people who do not enjoy the status of persons apparently does not violate the moral order. The uncertainty mentioned in the title of my presentation, as well as the order referred to, is of moral nature, as it does not concern the theoretical judgments, but the practical ones, i.e. the ones that express moral duty. Let us begin by pointing to the issues in modern bioethics that create a moral uncertainty as to the respect for everyone's right to life.

1. The Contexts of Uncertainty

To be precise, we must note that in our moral lives there are indeed few decisions that may be taken with an unshakeable certitude as to the rightness of the intended action. Adopting a particular hierarchy of values and hence a particular set of norms to be obeyed does not automatically solve all the moral problems one must deal with in every day life. Even a most strictly defined norm that is accepted on the grounds of an ethical theory will always remain general in reference to the life of a particular person. The toil of moral choice consists in the application of such a norm to a set situation in which one is to take the decision, whereas life is certainly richer than the cases described in the handbooks of ethics. Although this fact does not invalidate the usefulness of ethical theories in our lives, it makes moral choices difficult, and the toil of making them is related, among others, to our lack of certainty. If the uncertainty one encounters while taking a decision that directly affects human life bears special moral significance, the reason is that life is a fundamental value. We generally express this opinion in situations when we face human life being endangered. Each of us is familiar with cases of rescue operations, described in the media, when rescue teams do not cease to continue their risky mission as long as a slightest hope persists that there is a life to be saved. Approached with the question whether there is any sense in endangering the lives of whole teams of rescuers in order to save individual victims, or in putting substantial financial resources in such actions, we will indignantly answer: but of course! After all, the issue at stake is human life! If our sincere indignation is devoid of any calculation, it is so, because we deem human life as a value. It is precisely for this reason that we speak about the right to life. The mentioned cases of rescue operations each of us is familiar with point to the fact that whenever human lives are endangered we rather tend to assume – despite our uncertainty about their fate – that the individuals in danger are still alive than to consider them as tragically lost. Why should we not analogously approach the dilemmas that concern uncertainty as to whether we are dealing with a human life?

The multiplicity of appraisals as well as the multitude of norms proposed within modern bioethics show no doubt as to at least one issue: There is indeed a vast number of problems in this field that are not treated univocally. These problems become particularly difficult to handle in situations when the value of human life as such may be at stake; needless to say, they are problems with which bioethics deals very frequently. Let us raise at least a handful of them.

Firstly, problems of this kind occur in relation to early developmental stages of the human being. The doubts as to whether human embryos are

bearers of the right to life became a problem only when – due to the possibility of *in vitro* fertilisation – the human organism at such an early developmental stage became directly available for broadly understood medical intervention. The relatively low efficiency of the IVF techniques, estimated at 20%, involves production of a larger number of embryos. The so-called extra embryos, produced in laboratory conditions, are either destroyed or used for the purpose of research. Lately, there have been unceasing controversies over the use of embryos for obtaining stem cells. Indeed, the purpose of obtaining stem cells is a noble one: they are to be used for research of therapy for so far incurable diseases, e.g. Parkinson's disease or Alzheimer's disease, the problem being, however, that research of this kind inevitably involves destruction of the embryos in question. In the debate over the use of human embryos for the purpose of research, the opinions of those who hold that the human embryo already enjoys the right to life are challenged by the views of their opponents, who absolutely or partly refuse the human embryo such a right. The proponents of either of these standpoints frequently point to the margin of uncertainty in their opinions which they consider as an argument either to strengthen or to weaken their positions.

The arguments 'for' or 'against' the right to life of embryos are put forward also in the debates over preimplantation diagnosis, which has been made possible by the use of the IVF techniques and which is supposed to help eliminate the implantation of embryos affected with genetic disorders. It might seem logical that once we are able to prevent the birth of handicapped people, we should take this opportunity. The practice in question would not be controversial were it not for the question whether an embryo already enjoys the right to life. If we can safely assume that in the case of such an early developmental stage we are not yet dealing with a human life, but merely with a lump of cells, the objection about the supposed destruction of human life will be absolutely groundless. However, what if one cannot exclude the fact that already at this stage, there exists an individual human organism? What should we do if we are in doubt...?

Indeed prenatal diagnosis concerns the successive developmental stages of the human being at which the human beings happen to be refused the right to life. Far as I am from identifying prenatal diagnosis with acts of abortion, I must nevertheless point to the fact that this kind of diagnosis, and precisely the information on the structural or genetic defects of the fetus obtained in this way is not infrequently the reason for terminating the pregnancy. One might suppose that the view of a fetus that already shows human shapes should dispel any doubts as to its humanness, yet it is not so. Numerous authors consider a developing human fetus only as a potential person, as opposed to an actual one. The recognition of the personal

potentiality of a fetus significantly affects the attitude to the fetus's right to life. Hence, if it is the case that the embryo is only potentially a human person, destruction of human life at the prenatal stage will be considered as a merely physical evil, as opposed to a moral one; this view will be the stronger the more serious the anomalies shown by the living organism in question. If we take into account the already mentioned characteristics whose possession is frequently deemed indispensable in order to be granted the status of a person, severe mental deficiency will eliminate a 'potential person's' ability to achieve the status of an 'actual person', since a mentally deficient human being may never achieve the degree of mental development indispensable for expression of the rationality and freedom inherent in the human nature. Although the proponents of the theory of personal potentiality will have to deal with the problem of how to set the limit of developmental anomalies beyond which life is devoid of any value, and although they will remain uncertain of the possibility of setting such a borderline, their dilemmas will not affect the fact that they have accepted personal potentiality as their presumption. The question remains, however, whether one is justified in excluding the humanness of the unborn human beings and so of their right to life? Unless one is absolutely certain of this point, one risks violation not only of a purely physical value, but of a moral one...

Neither does the birth of a human being itself dispel all the doubts concerning his or her right to life. Today some propose that so called 'selective treatment' [Harris, p. 35] should replace abortion. The essence of this proposal consists in the claim that letting the child die is better than contributing actively to its death. In practice, such an attitude may involve abandonment of supporting the child in artificial ways with food, oxygen and antibiotics indispensable to fight infections. Those who consider such practices as rightful firmly reject the objection that the children's right to life is violated, as serious mental deficiency, for reasons explained above, allows one to question the personal status of children affected by mental handicap, and so their right to life. Patients in permanent vegetative state and terminal patients incapable of rational action will be in a likewise situation. Thus passive euthanasia in such cases will not be perceived as a violation of the right to life. However, the question remains whether in the case of human beings purely vegetative state indeed justifies refusing them the right to life. Can one be so certain of it? While posing this question once again, I want to stress that in this presentation it I do not intend to argue for the rightness or wrongness of either of the mentioned positions. What I am interested in is the problem of uncertainty in evaluation and not the reasons behind the views of the proponents of the opposite standpoints.

One should also ponder a whole range of cases of medical interference in which the doctor is uncertain whether the applied therapy will prove effective. This type of uncertainty is prevalent in cases when the interference in question is of experimental nature, as this type of interference involves a fairly serious risk. Such interference is considered as morally acceptable in certain circumstances² due to its supposed therapeutic benefit. As the interference as such is not directly fatal, accusing the doctor of having violated the patient's right to life would be groundless in such cases. The uncertainty that accompanies experimental therapy considered as acceptable does not concern the rightness of the action that is being taken (i.e. commencing the therapy), but rather the rightness of the ways by means of which the action is intended to be performed (the kind of therapy).

Regardless of the type of uncertainty in question, however, uncertainty as such cannot be eliminated from the biomedical interference which is the domain of bioethics. Let us explore the element of uncertainty in action.

2. Uncertainty in Action

The uncertainty with which we are dealing here is of moral nature as it pertains to the rightness of action. Uncertainty as such can also accompany theoretical judgments and result for instance from an incomplete knowledge of physical processes or of historical facts. While it is true that a lack of certainty about issues of this kind may also affect action, the main characteristic of moral uncertainty is that it directly concerns the decision to be taken. We are not morally uncertain in cases when we do not know how to interpret a given fact, but rather in situations when we do not know what we should do. As it has been pointed out, moral uncertainty is the uncertainty about the rightness of the action that is being taken. As such, it does not involve merely the risk of making a mistake, but also one of committing a morally wrongful deed. Although a lack of knowledge, in particular a lack of knowledge that one cannot be blamed for, lifts the moral responsibility for the bad consequences of the action from its doer, one cannot justify oneself in such a simple manner in cases of uncertainty, as they are instances in which 'one knows that one does not know'. Otherwise one would not be uncertain. Moral uncertainty concerning actions may follow an uncertainty about facts. It appears that this is precisely the way in which moral uncertainty enters the field of bioethics: The doubts as to with whom

² I.e. when the following conditions are met: experimental therapy is the only available way to save the patient, when it gives a good life-saving chance, and when the patient, fully aware of the experimental nature of the treatment, has given his consent to it.

or with what we are dealing generate the doubts concerning the actions that involve respect or disrespect for the value of life of the being or of the someone in question.

Moral uncertainty may also result from one's incapability of foreseeing precisely the consequences of one's actions. It may happen that one spends a long time developing the possible strategies of action, yet the unexpected consequences are not prevented. However, there is a substantial difference between the uncertainty about the rightness of the action as such and the uncertainty concerning the consequences of the action that are difficult to foresee. An example of the latter can be seen in the indecision of a doctor who has no doubts about the need to subject his patient to a therapy, yet he is in doubt as to the choice of the right treatment. In the former case, however, the doctor is striving to decide whether further treatment still has any sense or it will already be futile therapy. In the case of therapy choice one can try to reduce the uncertainty about the right selection of means to an otherwise right aim through a more precise discernment of the consequences of action and by subjecting the foreseeable consequences to calculation. Uncertainty of this kind is essentially of prudential nature, yet it is morally significant due to the value that is its object. Since it is impossible to anticipate fully the consequences of any action, one cannot be a hundred percent certain that one's decision will 'hit the jackpot'.

Uncertainty about the rightness of an action itself will principally appear within these ethical theories in which certain actions are deemed as always right or wrong, that is in deontological theories (such as e.g. personalism or Kantism). The uncertainty in question will not result from the expected consequences of a given action, the only consequence taken into account being simultaneously the intended aim of action that determines the moral character. I do not hold that uncertainty does not accompany decisions taken within consequentialist theories based on the utilitarian paradigm, yet in my opinion, uncertainty is easier to eliminate within the consequentialist approach. As opposed to the previous case, uncertainty about the rightness of action is not one about which way of reaching an otherwise rightful aim is best, but it is rather uncertainty about whether a given action is to be taken at all, whether the object of the action in question is at all acceptable. In the mode of action this uncertainty will appear at an earlier stage: one first considers whether a given action is to be performed at all, and only later does one consider the means to take. In order to reduce this kind of uncertainty (its full eradication is probably beyond the scope of our capabilities) it seems worthwhile to make recourse to an ethical theory and refer one's dilemmas to the norms of action that are established within such a theory. Can a theory that recognizes a strict hierarchy of moral norms develop a 'strategy' of action in cases of uncertainty?

3. Acting in Cases of Uncertainty

Let us commence by saying that in the ethical tradition we are familiar with preference rules that are helpful in arriving at certainty. These rules, put forward by the neoscholastic moral theology, are practically disregarded by modern ethicists. Still, let us recall some of them: *in doubt favour the more probable proposition, doubtful law does not oblige, in doubt stand for the validity of the act, in doubt privileges must be interpreted broadly and duties must be seen strictly*. It is generally recognised that all these principles follow from the first and fundamental one, which states that in a situation of uncertainty probability is the decisive factor, as long as a contrary proposition is not sufficiently proved [cf. Keller, pp. 250–254]. Is this the case that one can achieve practical certainty by applying any of the principles that follow from this fundamental one?

Classical ethics, that is one that draws on the Thomistic tradition, answers this question by reference to its master's theses. St. Thomas Aquinas stressed that one can be bound by a duty only in a situation when one is aware of the existence of the respective rule. As long as one does not know about the rule one is by no means bound by it [cf. St. Thomas, 17, a 3]. Thus doubt, as well as a lack of knowledge, would disable one's capacity to take the right stance to the planned action in question. A lack of objective certainty about the planned action arouses doubts of subjective nature. This means that once the rightness of a given action is put into doubt on the level of an ethical theory, the agent will as a result tend to be caught in personal dilemmas. Such dilemmas can also appear in cases when the agent questions norms that are unquestionable on the grounds of the theory. Simultaneously, it cannot be excluded that the agent, having favoured rather freedom of action and his own opinion than obedience to objective norms, will acquire the certainty that will enable him to take the decision. The debates whether in a situation of uncertainty one should give the priority to the set norms or rather to one's own opinions resulted in the creation of so-called moral systems in moral theology. These systems are essentially methods of providing practical certainty in an indirect way. Hence, according to radical tutiorism, in doubt the side which favours the law is always to be followed, even in cases when the opinion that favours freedom should be the most probable of probable opinions. Moderate tutiorism in turn holds that in the case of doubt one is allowed not to favour the law only when one's own opinion that favours freedom is the most probable of probable opinions. According to probabiliorism, one is allowed not to obey a doubtful law in a situation when the opinion in favour of freedom is more probable than the opinion in favour of the law, while aequiprobabilism adds that if both views are equally probable or almost equally probable and the doubt

concerns the binding power of a law, one is to follow the opinion equally probable in favour of the law, but when the doubt concerns the existence of a law, one can follow the opinion equally probable in favour of liberty. Compensationism in turn demands that in a situation of doubt one should not act against the law without a sufficient justifying reason, while probabilism states that in such cases one may follow the opinion that favours liberty, as long as this opinion is highly probable. A standpoint that is diametrically opposed to tutorism, which was discussed in the first place, is laxism. It favours the majority opinion if it is to some extent probable [Keller, pp. 256–267]. Among the mentioned systems, radical tutorism is the one most frequently referred to these days, in particular in the context of bioethics. It is referred to above all in cases when the danger of violating the right to life is involved, for instance, if it is uncertain whether the patient has undergone brain stem death, he or she must not be seen by the doctors as a donor of organs for transplantation.

Attempts at working out a strategy of action in situations of uncertainty were not finished together with the age of neoscholastics. Proposals of the rules of action in a situation of moral uncertainty can be found also in modern philosophical literature. Canadian philosopher T. Lockhart³ proposes two principles of this kind. According to the first one, while taking a decision in a situation of moral uncertainty, one (the decision-maker) should (rationally) choose some alternative the moral rightness of which one is certain. By ‘situation of moral uncertainty’ the author means a situation in which a decision-maker is uncertain of the moral rightness of at least one of the alternative acts under consideration. In such a situation one should favour the alternative of which one is certain and abandon the uncertain one. Since the first principle does not cover situations in which decision-makers are not certain of the moral rightness of any of their alternatives, Canadian philosopher formulates the second one: in situations of moral uncertainty, one (the decision-maker) should (rationally) choose some action that has a maximum probability of being morally right [cf. Lockhart, pp. 22–26]. This principle does not practically differ in any way from the basic principle of action under moral uncertainty adopted by the neoscholastics, to whom the author nevertheless does not make any reference. It appears that the analogy between the intuitions of the neoscholastics and of those of Lockhart confirms the statement of *Happiness and Benevolence: Essay on Ethics* [Spaemann, p. 7] that no particularly new insights have appeared in ethics for centuries, except that the old truths are being expressed by means of a new language.

³ The author works at present in the University College in London.

According to Lockhart, there is not a better example of the application of the second principle than the one of a decision to perform an act of abortion. Those who happen to be taking such a decision in most cases are uncertain of its moral rightness, because they cannot exclude with absolute certitude that the fetus is a person and hence that it enjoys the right to life. Paradoxically, the more familiar they are with the controversy in modern ethics about the admissibility of abortion, the more uncertain they may happen to be, since following the course of the debate carried on by the opposite standpoints does not necessarily facilitate position-taking. Those who have to struggle with a decision of this kind cannot wait until the philosophers reach a consensus about the controversial issue in question (should they decide to wait for the philosophers' decisive opinion, they would never be able to take the decision); they must decide now. The author adds that practically no one can ever have a hundred percent certainty of the fetus's being or not fully being a person, who enjoys a right to life. In his opinion, certainty in this matter would be a sign either of ignorance or of fanaticism [cf. Lockhart, p. 50f]. I do not want to engage in a polemic against the author's standpoint, as what we are most interested in here is the element of uncertainty which, in Lockhart's opinion, is inherent in the decision to terminate a pregnancy. Does uncertainty prevent the decision in favour of abortion?

Lockhart answers this question in two stages:

1. In situations in which we are uncertain of the moral rightness of any of the alternatives of action, rationality commands that we choose the action of which we have the maximum certainty.

2. In most cases in which we struggle with the decision whether to perform abortion, the alternative of abandoning this action bears a higher probability of moral rightness than the one of taking it.

Thus:

In most cases in which we must take the decision whether or not to perform abortion, abandonment of this action will be more rational than taking it [cf. Lockhart, p. 52]. If we acknowledge that the fetus is a person, we reject the option in favour of abortion having recognized that the decision to abandon abortion is the right one. However, when we hold the opinion that the fetus is not a person, both the decision in favour of abortion and the one against it will be right.

	This fetus is a person		This fetus is not a person
	Personhood implies that abortion is wrong	Personhood does not imply that abortion is wrong	
abortion	0	1	1
no abortion	1	1	1

In this case Lockhart applies a ‘dominant strategy’ that is, an action that in any every eventuality produces a result at least as desirable as any other option would produce (in our case abandonment of abortion) and, under at least one set of circumstances, produces a more desirable result. Therefore we may remain uncertain of whether performing an abortion is morally right, but we have certainty that abandonment of abortion is right.

According to the author, the above argument is focused on the rationality of action and it leaves open the question whether or not fetuses are persons and thus have a right to life. It does not mean, however, that the author does not attach significance to the question of the rightness of action, but rather that in his opinion, rationality is the proper function of rightness, that is in a situation of uncertainty it is rational to choose the action that has the maximum measure of rightness, regardless of with what this rightness is measured. In this presentation we have initially assumed that the right to life does actually belong to persons. What we are still left with is the question of how the strategies described above support this right of persons in a situation of uncertainty.

4. Uncertainty and Rightness

Let us note first that the certainty of a decision does not amount to the rightness of action, while uncertainty of the decision that is to be taken does not amount to its wrongness. Certainty and uncertainty result from the recognition made by the acting subject, and the acting subject may be mistaken. This statement remains in accordance with St. Thomas, who considered the agent as exempt from obedience to otherwise valid rules of action of which the agent was not aware, on condition, however, that this lack of awareness was not the agent’s fault. Conviction about the moral rightness of a given action does not always correspond to the actual rightness of this action. The latter can be established by referring the action in question to the norm of morality recognized within a given theory. In the case of the problem concerning the right to life we may abandon an analysis of the validity of this right in reference to various ethical theories, as it is universally recognized. Indeed, the doubts inherent in the already mentioned exemplary cases concern the problem whether human beings in their early developmental phases should or should not be ascribed the normative status of persons. Since these doubts arise on the ground of both biology (it is put into doubt whether the embryo is a human organism) and anthropology, one can consider their objective nature independent of the opinion of the acting subject.

Furthermore, there is a connection between a lack of objective certainty of the moral rightness of the action in question and the subjective uncertainty. I understand that if, on the ground of the theory, there are no objective arguments for the rightness or wrongness of a particular action, there will also be no such arguments in the case of the individual decision of a subject that is performing the action. Much as the agent may be convinced about the rightness of his choice because of his emotional involvement, it will not ultimately make his decision right. It is also possible that even objective arguments for a given action will not convince the agent about its rightness. The agent will remain uncertain as he can point to other arguments that collide with the ones that claim objectivity, for instance, the agent may recognize the validity of the arguments for the normative status of human fetuses, but he may at the same time seriously considers the use of fetuses for the purpose of research if the research in question can contribute to therapy for so far incurable diseases. According to the moral systems mentioned above, acting in favour of liberty means acting in favour of liberty and against obedience to the functioning normative order. The particular systems differ from one another in the degree of the probability of the rightness of action required in order to favour one own arguments rather than the objectively recognized normative order. If the agent facing a decision to be made is in doubt as to the rightness of the choice, a given system is to assist him in 'changing his doubts into certainty'. I do not venture to state which of these systems is possibly the best, that is which one is most conclusive as far as the rightness of action is concerned – if doubts appear, it means that regardless of the accepted system, we still lack certainty of the rightness of action. The decisive factor in establishing the acceptable degree of risk in action is ultimately the nature of the norm that is being put into doubt. If the law that one is putting in doubt is a conditional one (as e.g. home rules for the inhabitants of a given building), acting in favour of one's own position rather than in favour of the norm (i.e. breaking certain rules for apparently sufficient reasons, that is making recourse to compensationism) amounts to violation of the local order, which is an acceptable practice on condition that it is justified. However, if we are dealing with an unconditional norm, such as for example the right to life, a well justified norm should have priority before one's uncertainty. It is not without a cause that the system that has found its home in bioethics is tutorialism. The higher the rank of the norm that is being questioned, the bigger the loss should we make a mistake. In the context of biomedical interference that we are discussing here, a serious risk, such as violating someone's right to life, should be a sufficient reason for abandoning action.

Lockhart stresses that he has no intention of influencing anyone's convictions by holding the thesis about the rationality of abandoning the

decision to perform an abortion; he only wants to demonstrate that the choice of the $\sim p$ option may be more rational than the choice of the p alternative. The fact that we put our convictions in doubt does not mean that we reject them altogether, neither does it prove intellectual dishonesty. The author realizes that his standpoint may be seen as supporting those who favour unconditional respect for human life. Yet he stresses that his analyses do not involve any moral evaluation of abortion as such, neither do they include discussions about the normative status of the fetus [cf. Lockhart, pp. 66, 73]. Thus, in situations when a consensus cannot be reached due to opposite philosophical and anthropological standpoints, reference to uncertainty may be the only rational argument that is left to us, certainly on the assumption that we admit the existence of some 'areas' of uncertainty. However, if we are already in the possession of a complete knowledge, and if we are absolutely certain of our arguments, it would be irrational to point to uncertainty.

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Prawo do życia a niepewność moralna

Tematem wiodącym jest kwestia prawa do życia. Punkt wyjścia stanowi art. 3. Powszechnej Deklaracji Praw Człowieka, który przypisuje to prawo wszystkim ludziom. Problem zaczyna się jednak, kiedy trzeba uściślić, czy w tekście Deklaracji chodzi o pojęcie *istoty ludzkiej*, którego desygnatem jest istota ludzka w sensie czysto biologicznym, czy też chodzi raczej o pojęcie *osoby*, a więc termin odnoszący się do sfery moralności. Współczesna definicja *osoby ludzkiej*, jakiej używa bioetyka wywodzi się z filozofii nowożytnej: ta zaś za cechę konstytutywną ludzi uznaje świadomość. Rozumowanie w tych kategoriach nieuchronnie oznacza kłopoty ze zdefiniowaniem moralnego statusu, a co za tym idzie, pozwala na zgłaszanie wątpliwości co do prawa do życia w przypadku embrionów i osób nieuleczalnie chorych, w stosunku do których

rozważana bywa możliwość zastosowania eutanazji. Zagadnienie, które jest dyskutowane w niniejszym artykule, w kontekście prawa do życia dotyczy aborcji, a więc odnosi się do pierwszej z grup istot ludzkich, których osobowy status bywa podważony.

Tytułowa dla artykułu moralna niepewność nie dotyczy częstokroć w kontekście dyskusji nad dopuszczalnością aborcji normy „nie zabijaj”. Zwolennicy aborcji nie przeczą, że zabijanie ludzkich osób jest złem, wątpią jednak w możliwość uznania prenatalnych faz rozwojowych człowieka za fazy, w których mamy już do czynienia z pełnoprawną ludzką osobą. Wątpliwość ta ma charakter moralny, a nie jedynie teoretyczny, decydując o aborcji nie ryzykujemy zatem błędnego sądu o charakterze teoretycznym, lecz spełnienie moralnie niesłusznego czynu. Jakkolwiek niepewność i ryzyko są nieodłącznymi elementami ludzkiego działania, to w przypadku gdy przedmiotem ryzyka jest moralnie doniosłe dobro, a takim jest ludzkie życie, stawiamy ryzyku granice: nie ryzykujemy życia drugich. W tradycyjnej teologii moralnej przywoływano tutaj zasadę tutioryzmu, nakazującą w przypadkach wątpliwych zawsze zachować odnośne prawo, czyli w dyskutowanym tu przypadku normę „nie zabijaj”. Podobna intuicja towarzyszy współczesnemu kanadyjskiemu filozofowi, T. Lockhartowi. Autor zastrzega, że nie chce rozstrzygać, czy ludzki płód już jest, czy też jeszcze nie jest osobą wraz z przysługującym jej prawem do życia, przyjmuje jednak zasady działania w sytuacji niepewności, z których wynika, że niezależnie od przyjmowanych przez nas tutaj przekonań, wyborem racjonalnym jest zaniechanie aborcji.