

**XHOSA PERI-URBAN WOMEN'S VIEWS ON ABORTION AS A HUMAN RIGHT:
IMPLICATIONS FOR A PRO-IMPILO THEOLOGICAL DISCOURSE.
ON THE CHOICE OF
TERMINATION OF PREGNANCY ACT NO.92 OF 1996, SOUTH AFRICA**

by

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DEDICATION

Men, their rights and nothing more;

Women, their rights and nothing Less" (Susan B. Anthony)

I wish to dedicate this work to many women who have walked the lonely and anguished path of unwanted pregnancies. To you African women this study, it is hoped, will somehow touch many hearts so that your burden will be shared, thus making lighter your burden to bear. May the patriarchal world in which you live and the churches from which you draw your strength to live find it in them to be in solidarity and empathise with you, instead of often judging you too soon.

I believe that no person knows the joy of bringing new life to the world more than you women. African women must be the joyous in the world for the outstanding performance in this regard. Thanks to their African men who often have been too conceited, perhaps, to be grateful for the job well done.

And as we begin to experience and experiment with new freedoms of democracy hitherto unknown to us, these are exciting and challenging times for all of us. How you handle your reproductive rights which the constitution entitles you is a great test that will see fundamental changes not only to the values of the family but even more critically to a new definition of women's sexuality.

I dedicate this work to you as I attempt to wrestle with these challenges for what their implications might be for our African communities.

ABSTRACT

The conceptualization of this study is conceived out of the new abortion Act No.92 of 1996. Under this new Act a woman can procure abortion on demand within the first 12 weeks of pregnancy. The thrust of this thesis is based on the hypothesis that a woman's decision to seek abortion is a highly individual decision which neither the church nor one's culture can succeed imposing any control measures against. This essentially means that moral-ethical considerations engendered by one's religio-cultural orientation are in fact inconsequential for individual decision making and implementation.

The secondary hypothesis is that while the above may be true, it does not necessarily exonerate the individual from her religio-cultural conditioning and thus creating a dissonance between the woman and her significant others. These may be one's family, church or any close associations. It is in this respect that the study examines three trajectories which, it is claimed, are constitutive of the African contemporary communities. These are: the African traditional culture, the Christian heritage and the culture of human rights as practised within a democratic society.

The study looks at the ramifications of what happens when these three perspectives interact, with a particular focus on abortion under the new abortion Act. A recovery of certain elements of African resources is argued for which, it is suggested, can hold in creative tension and healthy balance women's desire to exercise their reproductive rights while not compromising both their religious leanings and cultural roots. In this regard concepts of *ubuntu*, *impilo*, *ubomi-mpilo* and African spirituality are carefully examined and delineated with the eventual purpose of finding accommodative framework within the three trajectories numerated above.

This thesis is by no means exhaustive. It is an exploratory study intended to open up a serious discussion, specifically on issues of human sexuality on which both the African culture and the Christian faith have been silent. But that silence, as the thesis goes on to show, has not been without its casualties, especially for African women. It is this dangerous silence which the study challenges and seeks to break.

DECLARATION

I, Andile Manxaile, of the School of Theology, University of Natal, Pietermaritzburg, declare that this research study submitted on 1998 is my original work. Unless specifically indicated to the contrary in the text, this dissertation is not the work of any person but is the product and result of my efforts.

I further declare that the work has not been accepted in substance nor currently submitted in candidature for any other degree.

CANDIDATE:

ANDILE MANXAILE.

SIGNATURE:

DATE

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The community of Phola Park, at Umtata where I conducted my fieldwork deserve special mention. You welcomed me into your homes and at times compromised your family privacy. I now know that that quality which has always been admired of the African people has not completely diminished: *ubuntu*! To all of you, I say: *Mazenethole, ningadinwa nangomso futhi nenze njalo nakwabanye!*

I wish to thank all the staff personnel of the Umtata General Hospital. You trusted me with your documents and made available to me information I desperately needed for the purposes of this research. You spent time with me and were never too busy to respond to the unending number of questions I kept asking. If this was

a test to your call, I wish to congratulate you for being true ambassadors of Florence Nightingale. To you I say: Burn the light and keep the dream alive!

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ABBREVIATIONS USED IN THE STUDY

AICs	-	African Independent Churches
ANC	-	African National Congress
BARD	-	Bureau for African Research and Documentation
RDP	-	Reconstruction and Development Programme
SA	-	South Africa
SABC	-	South African Broadcasting Corporation
SACC	-	South African Council of Churches
TOP	-	Choice of Termination of Pregnancy Act
WHC	-	Women's Health Conference

GLOSSARY OF TERMS

WORD OR PHRASE	ENGLISH MEANING
<i>Bar kayma</i>	Denotes a state of viability of a conceptus.
<i>ilishwa</i>	An undesirable happening believed to be caused as a result of a spell or by the wrath of the ancestors.
<i>imbeleko</i>	A family occasion whereby a goat is slaughtered with the intention of accepting the new born into the family and presenting the infant to the ancestors to be under their protection.
<i>imithi</i>	Traditional medicine believed to be used either to heal or bewitch someone.
<i>impilo</i>	A condition in which one's energizing life-force to sustain <i>ubomi</i> (life) is maintained.
<i>impilo-fication</i>	A state of being and a process whereby one's life/ <i>ubomi</i> is not threatened by non-existence or non-beingness, instead is vitalized and energized towards a sustainable and comprehensive well-being.
<i>indalo</i>	World of nature
<i>ingqumbo yeminyanya</i>	Wrath of the ancestors
<i>intlombe</i>	A dance gathering of initiated young men who have been through circumcision.
<i>intonjane</i>	A girl who is undergoing ' <i>ukuthonjiswa</i> ' a reference to a process of seclusion which marks the girl's first menstruation thus reaching puberty.
<i>isithunzi</i>	Refers to either an artificial and negative exposition to life (bad luck), or a positive disposition to life (one's dignity).
<i>Lobola</i>	Dowry
<i>Nefel</i>	A stillborn
<i>Pro-impilo</i>	Playing an advocacy role for the defense and promotion of a comprehensive well-being.

WORD OR PHRASE	ENGLISH MEANING
<i>Seriti</i>	The essence of being human (isithunzi).
<i>ubomi</i>	Denotes an existential reality of being alive.
<i>ubomi-mpilo</i>	A life lived in comprehensive well-being, a totality of the essence of life.
<i>ubuntu</i>	A comprehensive term which embraces all good qualities associated with being a person of integrity and virtue.
<i>ubuntu-fication</i>	A state of being and is a process whereby one's disposition to life exudes qualities of <i>ubuntu</i> towards becoming a true person of substance, dignity and honour.
<i>umdudo</i>	A men's dance gathering, usually elderly men (accompanied by their women).
<i>umeluko</i>	A ceremony of circumcision which signals a transition from boyhood to manhood.
<i>umngcwabo</i>	A burial service which is observed as solemn ceremony.
<i>umngqungqo</i>	An exclusive dance gathering of girls who have been to their first 'season' (from about the age of 14 and above).
<i>umtshotsho</i>	A dance gathering of bigger boys of adolescent stage (with their age-grade girls).
<i>umshato</i>	Wedding ceremony
<i>ukuhlolwa</i>	An inspection of the girl's vagina to ascertain whether she is still a virgin.
<i>ukukhonga</i>	Marriage negotiations
<i>Ukuthonjiswa</i>	A reference to a process of seclusion which marks the girl's first menstruation thus reaching puberty.

CHAPTER ONE

INTRODUCTION

1.1 Background to this study

Abortion is one of very few topics which can be classified as both literally and figuratively a matter of life and death. This results in the discussion on abortion being an emotional one. Consequently, the discussion soon polarises those who display different opinions and competing convictions. The numerous divergent perspectives from which the topic has been discussed is one major reason why the abortion debate becomes acrimonious. For example, the legal, philosophical, biological, moral and religious approaches have often been raised, one against the other, thus rendering the subject highly controversial. Indeed, even within a given argument like religion, one still hears divergent voices clamouring to subdue, if not completely silence the other.

However, it would not be reductionist to summarise the discussion on abortion as falling under two major opposing positions, namely, the anti-abortion and pro-choice. The anti-abortionists have castigated the pro-choice group on reasons which often have been essentially religious. On the other hand, the pro-choice has often accused the other group of being anti-choice and by implication of being against individual's democratic right to choose on whether to abort or not. The Church of the Province of Southern Africa (1996:3-4) has summarised the two positions well when it observed:

Both phrases suggest something positive about the attitude of those who hold the view, and something negative about their opponents (who wants to be 'anti-life'? equally, in a complex world in which women's rights are a major factor, who wants to be 'anti-choice'?).

The complexity of the debate requires one who embarks on a study as this to take heed of the observations made by Hauerwas (1994:212) who has written:

Essays on the morality of abortion, whether they be anti or pro, have begun to take on a ritualistic form. Each side knows the arguments and counter-arguments well, but they continue to go through the emotions;... It is almost as though we assume that the repetition of the arguments will magically break the moral and the political impasse concerning the status of abortion in our society.

The focus of this research project will not be to repeat the old arguments whether for or against abortion. That route would be unlikely to benefit anybody. The comments made above by Hauerwas should make one weary of redundancy in this discussion. Now that the new abortion Act has already been passed the dynamics of the debate have shifted. The debate is no longer whether we should have abortion or not, but to what extent and how.

Taking into cognisance comments made above, this thesis focuses on the following hypothesis: That women will access the service on abortion as their individual democratic right under the Choice of Termination of Pregnancy Act.¹ This, women will do, despite the churches' opposition to the new Act. The challenge confronting the churches is to find an accommodating pastoral approach which will take the churches out of the present limbo of merely hurling reactive utterances against government, while mouth lynching its membership who seek to procure abortion as hell deserving sinners.

Having said that, I want to argue that the democratic dispensation in our country which has ushered a new culture of human rights, if it has to succeed, must be underpinned by a sensitivity to African cultural value thought system. I am aware that such a statement may resonate feelings of suspicion and unease among those who regard African culture as 'hypermasculine', patriarchal and thriving on domination-subordination model of relationships between men and women. For now I wish to suspend judgement on the justification or otherwise of those perceptions. Suffice to say that I will address such concerns in chapter four where I discuss African understanding of and practice in human relationships and the concept of

1. Choice of Termination of Pregnancy Act No.92 of 1996, hereafter referred to as: the new Act, or TOP.

human rights. Let me venture to say though, that my impression is that the condemnation of abortion particularly by African male clerics, has perhaps more to do with the African cultural ethos than with biblical pronouncements and evidence. This claim is corroborated later in Chapter Four in an elaborate discussion on African culture, especially as this relates to reproduction and women's fertility.

If the factor stated above is not acknowledged, procuring abortion by African women as their individual democratic right under the new Act stipulations is bound to result in tensions and polarisation within African families and communities. I want to postulate that procuring abortion within African communities cannot be a sole decision of the woman, if that decision is to give her the intended 'better' quality of life. Indeed, the opposite is achieved if that decision is carried out solely on the basis of individual decision-making and implementation.

Embracing Western democratic values of individual human rights needs to be mediated by a recognition of our peculiar context of Africanism which cherishes other equally critical values. While not intending to discuss these values here, a provisional mention of them must be made. Firstly, traditional African understanding of self is predominantly interdependent, collective and socially rooted. This is unlike the Western perspective which conceptualizes self in a highly independent, self-contained and autonomous way.

Secondly, the African upbringing encourages even demands that self in essence is constituted within an ethos of a culturally defined environment and social milieu. In this regard one learns to subordinate one's individual goals and needs for that of the family, friends, or community. Again this attitude to life contrasts markedly with Western emphasis which accentuates personal priorities, self-reliance and independence.

Lastly, mention must be made of the profound and holistic spirituality of the African people. Accordingly, the African world view is not analyzed in terms of a detached metaphysical dualism which sees spirit as separate even antithetical to body or matter. Both these realities are seen as constituting one rhythm of life and

existence. This is why the concept of community among the African people includes the living, the unborn and especially the ancestors. These points and the related issues will be discussed in some detail in Chapters Four and Six as they have a direct bearing on our abortion debate.

I wish to contend that in our genuine and legitimate quest for the democratisation of our country there lurks the danger, as stated by Richardson (1995:37) "... of imposing foreign ethical criteria thereby effectively colonising the morality of Africa". In an insightful study Graham Lindegger (1996) reports that empirical literature review shows that factors such as social context, religious beliefs, cultural setting and psychological condition specifically, gauge the degree of distress and negative effects a woman will suffer after abortion. If this is true, it strengthens my contention that one's cultural formation and other culturally constitutive elements of the individual must be taken seriously in handling the abortion debate.

In this regard one must consider seriously African thoughts and insights on issues such as: women's fertility, the nature of relationships between couples, good social relationships, and the general well-being of persons and society. Again, let me say that the value of the points cited here will be elaborated on in Chapter Four. In that chapter I hope to show how the African world-view and thought patterns may offer us fresh possibilities, in ways of looking at the debate on abortion. Critical to the debate as formulated within this study will be the subordinate thematic concerns within the overarching topic. In this regard I examine if there is no African 'boundary framework' we can conceptualize theologically in addressing the issue on abortion. Amongst such subordinate thematic concerns that this thesis is struggling to address is that of finding credible responses to the concerns such as the following:

- (a) Is there an identifiable African spiritual ethic to utilize on the abortion issue? If so, what are its elementary characteristics that would inform the nature of our moral decision on such an issue?

- (b) What are the ethics of African community and its spirituality in regard to abortion which would aid women in their quest for self-fulfilment, equality and human dignity?
- (c) Can an African ethical inquiry and reflection produce a viable contribution in regard to abortion within the broader context of democracy and human rights?
- (d) In what way can African spirituality be blended with the ethics of Judeo-Christian tradition in a dynamic interplay towards addressing the issue of abortion?

In the light of the above cogent constitutive components of the African identity I propose to utilize the concept of *pro-impilo* towards moving beyond the impasse characteristic of the present debate on abortion. The conceptualization of *pro-impilo* will be explained shortly. The African value system will be utilized in this study with the hope that it can inform us on what might be entry points on African ethics of abortion. The Judeo-Christian ethics of abortion and the concept of human rights will also be examined because they constitute the nexus within which the entire discussion emanates and evolves.

Let me explain: The contemporary African communities of South Africa are largely constituted of three factors which are: Their Africanness with the attendant cultures and traditions; the heritage of the Christian faith with its prolific and litany of dogmas which Africans have appropriated to themselves over the centuries. Lastly, the Western-European blend of modernity which would include aspects such as the specialised formal education, capitalist economic system and socio-political arrangements and more specifically the democratic system of government with the concept of human rights-which I am in dialogue with in this work.

This characterisation of the African society is, for example, affirmed by Mwamwenda (1995:72). In a separate discussion about African child-rearing practices he emphatically states: "It must be acknowledged that traditional African child-rearing practices have undergone some changes due to a number of factors,

some of these being Christianity, schooling (formal education), Westernisation and urbanisation."

I want to argue that pro-impilo paradigm can serve as an accommodative framework upon which the deliberation on abortion could be pursued within the African context. The concept of *pro-impilo* is my own phrase. The term originates from the Nguni word *impilo* (see glossary). *Impilo* roughly translated means comprehensive well-being. *Pro-impilo* means 'acting towards the well-being of oneself and the other'. My conceptualization of this term was motivated by an article written by Martin Mandew.² Mandew's (1995) main argument is that sustainable development within the South African context must utilize "... the vast treasure of African culture and African spirituality."

Mandew goes on to explain himself as follows:

I refer to the spirituality and culture of *impilo*, which stands at the centre of the way the world has traditionally been viewed in Africa, ... Reality according to the traditional African world-view is made of two parts: the realm of the living and the realm of *abaphansi*, ancestors, ... The relationship between the realm of the living and the realm of *abaphansi* is kept alive in a dynamic fashion through the notion of *impilo*, ... The basic attitude of the person towards life is, and should be, *impilo*-centred (italics mine).

Although Mandew's arguments focus around the theme of sustainable development, I am pushing his notion of *impilo* further to appropriate it on the abortion discussion. It is his article that gave me the impetus to explore the possibility of utilising the same concept in offering an African response and contribution to the abortion debate. The *pro-impilo* alternative to the abortion debate will hopefully facilitate as a workable option in thinking about abortion within the African paradigm. Chapter Six will show in some detail how the argument is developed in defending this position going beyond Mandew's rudimentary comments on the *impilo* concept.

2. The title of the article is: The culture of *impilo*. In: Natal Witness (24 June 1995).

I am motivated in this study by my desire to offer a theological discourse that can contribute in interfacing between the democratic yearning of the African women on the one hand, and the customary and traditional values of the African people on the other. This is done within the discussion on abortion in the context of a transitional phase of a developing society whose majority, after many years of socio-economic and political subjugation, are experiencing and experimenting with freedoms hitherto unknown to them.

1.2. Motivation

I approach this study with some trepidation because of the scarcity of material covering African morality and ethics from African writers, particularly, African theologians. I am mindful of the observations made by Richardson (1995:39) who has written: "The definitive work on African morality and ethics has yet to be written, and it will be a brave person who sets out to do so".

Let me hasten to confess that it is not because I am a 'brave' person that I have undertaken to contribute something on African morality. Perhaps it is because I am naive - at least this is how some people may judge me! My academic training since leaving high school has been in theological studies. In this respect I consider myself to be specially equipped to engage on matters of life and death, for which the church is notorious! Very few subjects, as I have remarked in my introduction, are as close to the subject of life as is abortion. For my part, my interest on the subject arises not out of any pre-occupation with spiritual escapism from real life situations and issues. My interest in the abortion debate arises out of my theological conscientization to the role of the church on issues of social change and transformation, especially as this relates to gender and development. It may not be immediately clear for some how the discussion on abortion relates to issues of gender and development. The observations made by Potts *et al*³ may help to illuminate this point. These writers have observed that,

3. Cited by David Smith: Life and Morality: Contemporary Medico-moral issues. (Gill & Macmillan, 1996), p.6.

Abortion is an intrinsic element in social and economic progress. No society has made adjustments in their people's income per capita, education, literacy and female employment without a reduction in family size.

Smith elaborates on the comments made above by these authors and suggests factors which contribute to women procuring abortion. Among these are socio-economic pressures, urbanisation (with its economic demands for small families), and the need (or freedom) of women to work. Smith then notes that in the absence of contraception or its failure women turn to abortion. "There seems to be less possibility of 'making do' with an extra, unwanted child in the cities than in the country" (Smith 1996:6).

Furthermore, it is interesting to note that the Women's Health Conference (WHC) (1994:2), a coalition of women's organizations argued for abortion on the basis of what it called "a social need". Under this factor, women's poverty, upliftment of women and the general development of society are cited as justifiable reasons to make abortion more accessible and affordable.

I hope that the comments made above help to demonstrate the linkage between abortion and the issues of gender, power relations and development. I am not evaluating these reasons for now, but merely pointing out that abortion has very much to do, not just with questions of law and morality, as O'Gorman (1996:2-3) argues:

At the heart of this national debate stands the question of the relationship between law and morality, ... How far can the relationship between morality and law - with particular reference to abortion - be stretched: to the point of separation?

The characterisation of abortion in such stark terms as O'Gorman does lends itself to a definition of morality in philosophical rationalism and theological jargon. However, when ordinary people speak of morality it has little if anything to do with these intellectual abstract pronouncements. Ordinary people speak of morality in terms of their personal experiences. As Paul Tillich once remarked, "Morality for ordinary people is not the result of reading books and writing papers, ... Morality

is not a subject; it is a life put to the test in dozens of moments" (cited in Shelton, 1990: 3).

The 'tests' of life that Tillich talks about are not spiritual temptations in the desert but have to do very much with existential, socio-economic problems related to people's basic life necessities and needs. In this respect I am in agreement with Nürnberger (1996) when he writes that moral norms have not fallen from heaven as eternal truths which demand obedience regardless of consequences. They have risen in history from situations of need and necessity, and carry a theological validity.

Pato (1994:53) has aptly observed: "The transformation of political and economic structures and the empowerment of any society must be accompanied by cultural and moral reconstruction." My hope is that this work contributes in some measure to that challenge of cultural and moral reconstruction as I seek to utilize and appropriate African resources on an ethical issue such as abortion within the broader political and socio-economic reconstruction.

Pato's contribution in this direction in the essay quoted above is a welcome attempt. However, his essay leaves one with a sense that what he has achieved is merely to give a historical review of the African traditional culture. He does not seem to appreciate the contemporary realities which inform the experiences of today's African community. In this regard his work reflects a kind of nostalgia unlikely to be engaged seriously. I am sceptical of any work which while purporting to be utilising African resources towards African empowerment, completely ignores the current developments in science, technological advancement, new communication systems, socio-economic changes and constitutional democratic processes. Such an attempt constitutes nothing but a genocide of a people intended to benefit from such an exercise. Reasons for these strong objections will be elaborated upon in Chapter Six of this study.

1.3 Foregrounding my subjectivity

It is true that some people may be suspicious of and question my tackling a topic which may be seen as intensely a women's topic. They may feel that an impassable gulf exist between the two sexes, particularly on this subject and so conclude that my gender identification automatically disqualifies me as a competent person on the topic. I may be accused of attempting to justify my own already settled prejudices under the pretext of neutral and objective examination of 'facts'.

I submit that I can never fully appreciate how it feels being a woman under the often distressing and trying realities of our male dominated society, and often hostile and intimidating environment for them. I also submit that pregnancy, child bearing and the physiology of lactation are uniquely and exclusively feminine experiences. In this regard, the issue of abortion confronts women more directly and pertinently compared to their male-counter parts.

However, I have been deeply moved personally by the dedicated manner in which my own mother raised a 'herd' of nine children almost single handedly. My father worked very far and would only come home twice in a year. Later, as he moved closer he would 'visit' home, at most once a month. The bigger children soon had to out-grow being children and assume adult roles, assisting my mother to raise the younger ones. My mother, a simple and uneducated woman, I salute her for the job well done!

But I have also known children who were not as blessed as myself. Men, having abdicated their paternal responsibilities, it was left to their mothers who could ill afford to fend for them. Many of them could not and did not survive. For those who did survive and succeed in life, the toll of their struggles was left to their mothers to bear as a perpetual testimony of their betrayal by men. But ironically and even more gloriously, the marks of suffering became a testament of these women's unbending love and commitment to their children and families. Accept this then as a humble and sincere attempt to understand that pain of womanhood and motherhood.

I wish to believe that there is an inherent value in men seriously agonizing on such sensitive issues as abortion even though they may not reach the same depth as women. The critical point though is that men cannot assume to be speaking on behalf of women on this matter. This study cannot substitute women's own engagement with the subject of abortion and other related issues.

Possibly, this study may contribute something positive towards that new day when both women and men without privileging one gender, simply on the issues being discussed can engage one another. But even more importantly, my hope is that it contributes something towards containing the social ills generated by men, short of completely conquering them. To this end, it is incumbent upon all of us to work together without favouring one gender against the other, especially when those issues deal with the marginalised sections of our society, such as women, children and the disabled.

1.4 Value of the study

Beake *et al* (1996:327) have written: "Today a number of religious groups are divided over whether early abortion can be considered murder." The lack of consensus within the religious bodies, especially the Christian community, has undermined the moral authority of the church at a critical time when the church has to present a critical moral directive in our emerging democracy. The South African Council of Churches (SACC) (1996:327) also acknowledges the lack of consensus surrounding the issue of abortion. In its statement on the Termination of Pregnancy Bill, the SACC (1996:327) stated:

The Council recognizes that member churches, among others, hold varying, sometimes contradictory, and often very strong views on the issue of the termination of pregnancy. This does not lend itself to a consensus on the issue.

It is perhaps borne out of this realisation of the lack of consensus and sometimes open dissents and disputes among Christians that Archbishop Desmond Tutu (1996:327) has asked churches to recognize abortion as a reality that cannot be

wished away and thus exhorting the church body to react "with compassion and humility."

The virtues of compassion and humility in a discussion on abortion, are all the more needed in the church whose leadership is characterised by androcentric hierarchicalism, and whose policies and decisions are often crafted by the same male leadership. African women especially have been 'on the wrong side of history' for too long in South Africa, both in the church and in society in general. African women have profoundly suffered marginalisation and denigration of their humanity. They have endured what has come to be characterised as 'triple' oppression. They have suffered because they are black, because of their gender and because of their class stratification.

It is my hope that this study will in some measure contribute towards their liberation, empowerment and enhance the quality of their life in a more holistic approach. This, after all, is what the new Act on abortion sought to impact on women. I am in solidarity with that objective. Even when I appear to be critical of the government on this issue, it is not on the general principle of improving the quality of life of women, which was the motivation of the Act. What I question is the manner in which this is being done in terms of the new Act. And therefore, in the words of Wogaman (1986:1) "If we already agree on the 'ends' we all want, then only the 'means' need be considered."

The contribution this research seeks to make may assist churches in finding African resources which can be utilized towards facilitating a more credible and holistic approach in the churches' pastoral role to individuals, families and communities. In other words, the theoretical conceptualization of the topic will bring to surface its practical implications on the churches' ministry. In Chapter Six of this study, I will raise what I consider to be relevant and practical implications as well as highlighting possible responses the church could make on the issue of abortion in a manner that offers pragmatic realism. It is this pragmatic realism, I argue, that is needed in churches to accommodate real life experiences and needs of its ordinary membership and thus African community at large.

1.5 Delimitations of the study

This study is conveniently selective of both its research subjects and its sampling elements. Although I investigate African people and their views to the new abortion Act, I limit my investigations to Xhosa peri-urban women. Therefore this is not an inclusive study that encompasses all African communities of South Africa. African people in South Africa are divided into many ethnic groups each with its own peculiar way of life. The acceptance of this fact is not a negation of many commonalities shared among African people in general

But the differences are also as real as similarities. The Xhosa ethnic group is the one I myself identify with in a biological association and which I can claim a better understanding of. However, Xhosa ethnic group is itself a very diverse community with different experiences and needs. This would be true also of African women as a general indiscriminated group.

Murray (1996) has rightly observed that South African women are divided by race, class, culture, urban and rural situations, education, language and other variables. These divisions have determined women's ability to participate in and access their legal rights as enshrined in the constitution. I have decided to concentrate on the rural/peri-urban Xhosa women for the following reasons: We are a nation in transition from rural, country life to urban environment. An argument has to be made that the rural communities are experiencing changes which are gradually transforming them from rural conditions into informal peri-urban environment. Infrastructure is being built so that communities can begin to have electricity, tap water, telephones, lavatories in homes, roads, post office services, police stations, clinics and so forth. It has also become common in rural areas to witness an avalanche of unprecedented social problems such as violence, crime, murder, drug addiction, alcohol abuse, teenage pregnancies, child abuse and other social ills which formerly were thought to be "city wayward ways" of living. Life in rural communities is not as it was, even five years ago. It would be arguable whether on balance things have changed for the better or for worse.

These changes have rendered some of the rural communities casualties of the transitional phase in our emerging democratic dispensation. I say "casualties" to stress the nature of development often taking place in these communities. Such development tends to focus on programmes which do not necessarily empower these communities in terms of giving them knowledge, training and skills towards human-centred development. The observations made by Khumbane (1996) are insightful as she comments about the Reconstruction and Development (RDP) programmes among the rural\peri-urban communities.

In this time of reconstruction and development, personal and community level self-help forms an important part of the plan. But this is likely to increase the burden that women already carry; the poor are already expected to dig their own toilets, fetch their own water, and grow their own vegetables, on top of all the other work, visible and invisible, that they already do (Khumbane 1996:4).

The concerns expressed above are made all the more serious when one considers the fact that rural/peri-urban women by and large remain critical contributors in at least three areas of social life: childbearing, child-raising, providing household income and maintaining stable social relationships and community life. Their men are often conspicuous by their absence as they often dodge their paternal responsibilities. This is despite the fact that in these communities work opportunities are very scarce. This is particularly true for women. Rural/peri-urban women lack access to and control over land. These women have no ready access to financial credit and markets. Single, divorced and widowed women often depend on male relatives for their economic survival. Many stay in abusive relationships purely for economic reasons and the need to survive.

How then, given these circumstances, can these women be empowered to build their self-confidence, sense of independence and equality? To what extent can this new abortion Act advance their quest for freedom, and their reproductive rights within the boundaries of their cultural ethos?

The grassroots woman carries the worst physical and psychological burden ... and yet no one appreciates her ... She

is humiliated. The very man who has evaded his responsibilities, beats or kills her..We are still sacrificing our health for the comfort of men and our children and yet no one appreciates (Khumbane 1996:4).

The plight of these women makes it all the more necessary and urgent to look at their reproductive rights within the new political dispensation. Therefore, a study on Xhosa peri-urban women and their reproductive health becomes a timely one. Findings made in the study and the conclusions reached may have far reaching implications for the greater African communities experiencing similar social transformation.

1.6 Research methodology

Ellin (1995) has commented that there are differences in how one investigates moral issues as opposed to social, economic and political issues. He makes the following comments which distinguish philosophical research from other sciences. Firstly, sciences are essentially empirical whereas moral/ethical theory and inquiry is essentially conceptual. Secondly, sciences are entirely descriptive and explanatory whereas moral theory is often normative. Ellin notes however, that moral theoretical investigation whether done from a philosophical (or theological) approach, while it may not use empirical data from other sciences, must take account of the established facts about society and human nature.

In a normative investigation such as abortion, I would argue that one is trying to find which ideas and practises ought to be norms, values or standards. Such a normative inquiry seeks to discover standards of good and bad. This would be undesirable in social sciences, for example, which are usually descriptive and explanatory. When these sciences investigate ethical issues, often they will investigate morality as it actually is (or was). In other words, social sciences investigate what is and not what *ought to be*. This is because these sciences cannot in themselves validate any moral occurrence. Again Ellin (1995:4) writes, "It is not within the competence of sociological data collection, anthropology, history, or the rest to determine what morality ought to require."

The comments and observations made above make qualitative approach the best methodology that has been adopted in this study. I am aware that this methodology is not unique in moral theoretical investigation, but is utilized in social sciences as well. According to Merriam (1988), qualitative method helps those who embark on it to explore different dimensions of a phenomenon (and not at tracing one variable), and to describe what happens within that phenomenon.

In this respect Alasuutari (1996) links qualitative research to what sociologists have described as 'symbolic interactionism' which observes and takes seriously the question of culture in explaining meaningful action among participants. The paramount objective of qualitative research is to understand the *meaning* of that experience or phenomenon being observed or studied. It emphasizes processes of description and explanation rather than the testing of a narrowly defined hypothesis. Alasuutari (1995:2) says, "Observations (in qualitative research) are used in explaining or at least problematizing phenomena." This is possible because, unlike quantitative model, qualitative research does not rely on analysing the frequency with which something occurs together with another variable. On the contrary, it is "riddle-solving typology in terms of reasoning employed" (Alasuutari 1995:2).

It is because of the above stated reasons why qualitative methodology has been a preferred option for data collection, and interpretation for this study. This is not to deny nor discard the value of other research methodologies, for example, quantitative data gathering approach. However, because of its main focus on statistical analysis, it would barely benefit my purpose if used exclusively. In this regard, Chapter Five which discusses fieldwork and data assessment gives an illustration of how the two methods of data collection have been merged. While statistical figures are given on abortion these are not analyzed on its own strength. An interpretation of them is offered in terms of race, demographics and other factors not readily observed during the fieldwork itself.

The augmentation of quantitative methodology with some aspects of quantitative model is a utilization of what Denzin *et al* (1970:102) describe as "Triangulation

strategy". Triangulation strategy refers to multiple methods of observation which direct the researcher to utilize several different tools in the observational process within qualitative methodology. Denzin notes that the greater the triangulation in the research design, the greater the confidence a researcher would have in his findings. Alasuutari (1995:2) is insistent that in cultural studies one has to make use of all useful methods and theories, "... in order to gain insight about the phenomena one studies ... [because] each method is but an additional viewpoint on reality". This is why, for example, male respondents were used as well in this study in spite of its focus on female subjects. Also, female respondents were used across political, denominational, social and other divides. This application of several different tools, especially in ethnographic study as this one, yields results which are more reliable and valid.

Mouton (1996:168) summarises the principles upon which qualitative methodology is founded. Below I enlist these as I try to indicate their relevance for the purposes of my own investigation. Firstly, qualitative analysis focuses on understanding rather than explaining social actions and events within their particular settings and contexts. The focus of the research on abortion will seek to investigate the orientation of peri-urban women in terms of their attitudes, beliefs, feelings, thoughts and so forth. Secondly, qualitative analysis attempts to remain true to the natural setting of the actors and the concepts they use to describe and understand themselves. This is where the meaning women attach to their experiences becomes critical especially as these relates to human rights and abortion. What I seek to establish here is the world of meanings of these women in terms of various factors such as their religio-cultural and socio-economic factors which are critical in shaping how women describe and understand their own reproduction and fertility.

Thirdly, qualitative analysis attempts to reconstruct people's stories, accounts, and 'theories' which help them to mould and retain internal meaning and coherence of the social phenomenon. With reference to abortion, for example, what gives people 'internal meaning' and 'coherence' of the social phenomenon may be features which are not accessible through empirical observation. In conducting interviews, the information gathered will need to be interpreted within a cluster of factors not

least among these will be people's notions of *ubuntu* (humanness), *impilo* (energizing force that sustains life), and *ubomi-mpilo* (comprehensive well-being). These terms will be explicated in later chapters of the thesis.

Fourthly and lastly, qualitative analysis focuses on people's contextually valid accounts of their social life rather than formally generalisable explanations. In this regard the fieldwork part of the study looks at accessing information that reveals something about people's life as lived towards an evaluation of what it could be. In this regard an examination of people's cultural, social, political, religious perspectives and so forth becomes valuable in determining what constitutes their social life which in turn becomes definitive of people's values. These issues unfold and receive further exploration during interviews undertaken for the study. Further details of the actual data gathering process around these four elements of qualitative analysis are discussed in Chapter Five.

CHAPTER TWO

ABORTION ACT THEN ... AND NOW

2.1 Introduction

The passing of the new Act evoked a national reaction especially from those opposed to the liberalization of abortion laws. But if truth be told, there has been law in this country which allowed abortion to be carried out under certain circumstances and conditions. What then is the difference between the repealed Act and the present one? I now investigate this question by looking at both the old and the new Acts respectively. Such a deliberation will help to situate into context the present investigation of this study.

In 1975 the Nationalist Government passed the Abortion and Sterilization Act⁴. Before 1975, South African common law prohibited abortion except when the life of the woman was at risk. By the time the new Act was signed only minor amendments had been introduced to the original old Act. The last of these changes were implemented in 1983. According to the historian Bradford, as cited in Beake *et al* (1996:336) "Abortion has been a major form of birth control for thousand of years and has been common in all societies"⁵ Beake *et al* (1996) note that most African women believe that a conceptus is not alive until late in pregnancy. I wish to state that there are two variations of the word fetus/foetus as it appears in this work, in accordance with the usage of the sources. As a general rule I make no changes in the spelling when making a direct quote. For myself, I use the word 'conceptus' borrowed from Callahan (1970), who uses the word to mean 'that which is in the mother's womb'. This is rather a 'neutral' word which seeks to avoid the overtones which other words usually generate with their overt or concealed value judgements, words such as 'child' or 'fetus/foetus'.

4. The Abortion and Sterilization Act No.2 of 1975, hereafter referred to as:the old Act, or simply: the Act.

5. For a fuller discussion on the history of abortion, see David Smith (1996). Life and morality: Contemporary medico-moral issues (Gill and Macmillan).

Xhosa traditional communities, according to Beake *et al* (1996:336),

... used the herbs to end early pregnancies. So did the Afrikaner women. Coloured women used massage as well. Pedi herbalists had a herbal mixture that apparently worked well that white doctors tried to get hold of it.

It was during the nineteenth century that missionaries who came to South Africa "increasingly taught African women that abortion was a serious sin." (Beake *et al* 1996:336). Most black men even today continue to disapprove of abortion. For example, Beake *et al* (1996:338) state that "Rural Pedi and Tsonga men believe that if a woman had an abortion, the rain would not fall." If it became known that a woman had ended her pregnancy she would often be described as sick, abnormal or a witch.

What follows will be a highlighting of categories under which abortion could be effected in terms of the old Act. A critique of the old Act will then be given, to be followed by a discussion and evaluation of the new Act.

2.2 Abortion and Sterilization Act 2. of 1975

The old Act defined abortion as "aborting live foetus of a woman with intent to kill such foetus".⁶ According to the old Act abortion could be procured by a medical practitioner only under the following conditions: Where the continued pregnancy endangered the life of the woman concerned or if it constituted a serious threat to her physical health;⁷ where the continued pregnancy constituted a serious permanent threat to the mental health of the woman concerned;⁸ where there is a serious risk that a child to be born will suffer from a "physical or mental handicap";⁹ when the pregnancy is shown to be as a result of rape or

6. Par.1. p.1.

7. Section 3(1)a.

8. Section 3(1)(b).

9. Section 3(1)c.

incest;¹⁰ where pregnancy had occurred as a result of "unlawful carnal intercourse", such as "rape, incest and unlawful carnal intercourse with a female idiot or imbecile in contravention of Section 15 of the Immorality Act".¹¹

2.3 A critique of the old Act

The old Act can be criticized from, at least three perspectives: the politics of religio-nationalism, encumbrance implementation procedure and the burden of proof requirement.¹² What follows is a critique of the old Act under these following categories respectively.

Politics of religio-nationalism: It has become accepted that apartheid policy was sanctioned by Afrikaner Calvinism.¹³ The South African Nationalist Government regarded itself as the custodians of the Christian faith and its values. Calvinistic morality strongly influenced and informed its approach to the whole debate on abortion. Hansson and Russell (1993) have argued that it is this theology propagated through state machinery which make most South Africans generally unsympathetic to legalising abortion. It is interesting to note that at the time when the old Act was passed, the government was urging white families to expand "while coercing black women into having intra-uterine devices fitted or contraceptive injections under threat of sterilization" (Hansson & Russell, 1993:500).

In the face of what was cast as a threatening black majority¹⁴ 'Christian' white national education imbued many white South Africans with the belief that it was their "patriotic right and Christian duty to increase the size of the white population"

10. Section 3(1)d.

11. Section 3(1)e.

12. For an extensive critique of the old Act, see: Desiree Hansson & Diana E.H. Russell: Made to fail: The mythical option of legal abortion for survivors of rape and incest. *S.A. Journal for Human Rights* 9(4),(1993), p.500-524.

13. See, for example, John de Gruchy, *Liberating reformed theology* (Wm. B. Eerdmans Publishing Co. 1991), p.1-46.

14. Commonly referred to as: *Die Swart Gevaar*, or Black Danger.

(Hansson and Russell, 1993:504). Correspondingly, black people in general were sceptical of the Act at the time. They interpreted this as a political ploy of the white minority government aimed at reducing the political power of the "soon-to-be enfranchised black population" (Hansson and Russell 1993:504).

Consequently, during this time of high political temperature,

... there was increasing pressure on young black girls to get pregnant for political reasons, especially from 1976 onwards. Black girls were often told to have babies to replace those who had died in the struggle. Men and boys sometimes gang-raped women specifically for this purpose. Militant black youths were angered by high abortion rates, and this chant was often heard at political meetings in the 1980s: 'Those who commit abortions, you will be destroyed. Hai! Hai!'" (Hansson & Russell 1996:338).

The polarisation from both racial and political spectrums of society made victims of African women. By introducing stringent measures against accessing abortion the government was buying votes from its white constituency in order to maintain popularity. However, for the purposes of international public relations the government wanted to create an impression that it was in step with liberal societies. The political reality however, undermined whatever gains were provided by the Act.

Encumbrance implementation procedure: The second criticism to the old Act stems from multiple decision-makers listed below, who were drawn into the process. This resulted in a major impediment in the actual application of the Act. Provisions written into the old Act rendered the implementation so complicated, even to the point of being impossible. The Act unequivocally stated that a person would only procure abortion after having been seen by two doctors. The first doctor who examined the woman "shall in no way participate in or assist with the abortion in question"¹⁵ The two doctors referred to above then issue the certificates for approval of abortion, but shall not be considered valid, "if issued by members of the

15. Section 3(2)a.

same partnership or by persons in the employ of the same employer"¹⁶ At least one of the two doctors referred to above "shall have practised for four years or more since the date of his registration as a medical practitioner".¹⁷

Two other medical doctors (besides the first doctor who examined the woman), had to certify in writing that "in their opinion the continued pregnancy so endangers the life of the woman concerned or so constitutes a serious threat to her physical health and abortion is necessary to ensure the life or physical health of the woman."¹⁸

The woman who sought abortion due to "unlawful carnal intercourse" as defined by the Act, would be denied abortion, if the following pre-requisites were not met: A certificate, issued by a magistrate attached to the court having jurisdiction in respect of the alleged offense in question;¹⁹ a complaint relating to the alleged unlawful carnal intercourse in question has not been lodged with the police, and there is no good and acceptable reason why such a complaint has not been lodged;²⁰ and in the absence of 'a balance of probability', of unlawful carnal intercourse as determined by the doctor.²¹

These prescriptions were restrictive and made it very difficult for women to access the abortion Act even if they qualified in terms of the four categories outlined above. According to the WHC only 40 percent of women who applied for legal abortion obtained them (WHC 1994: 2). These complications were compounded for African women. Firstly, the procedure outlined in the Act proved to be beyond their financial means. Secondly, the long nature of the procedure meant that by the time one 'qualified' for abortion in the eyes of the law, the pregnancy could have completed its duration.

16. Section 3(2)a.

17. Section 3(3)a.

18. Section 3(1)a.

19. Section 6(4).

20. Section 6(4)(a)i.

21. Section 6(4)(a)ii.

Burden of proof requirement: Women who fell victim of rape and/or incest were further placed in the difficult situation of having to prove to the satisfaction of the police, the magistrate and the doctors that they were sexual victims. The Act stipulated that a legal abortion could only be granted 'on a balance of probability' that the said pregnancy was indeed as a result of rape or incest. Hansson and Russell (1993:511) remark that

The assumption that women lie about being raped or incestuously abused in order to obtain legal abortions is widely held within legal profession (and society more generally).

The problem though is that many instances of rape and incest are not reported to the police and even when reported, alleged culprits generally walk free due to lack of evidence. Moreover, instances of incest are often not revealed because they often involve female adolescents who are abused by their adult relatives. Power imbalances militate against the minor from going public with rape or incest charges. The minister of health, Dr. Zuma (Hansard, 1996:4760) argued this point at the second reading of the Bill in parliament:

We are also aware that many children are abused by members of their families and, in certain cases, by relatives, and therefore in those cases it would be difficult, and sometimes not possible, for an abused young woman to discuss the matter with and get consent from the abuser.

Practically, it would seem that due to the complicated legal application procedures and burden of proof in securing abortion, in the end the decision to abort or not did not lie with the woman at all. The legal restrictions of the Act took away that decision from the woman and handed it over to the police, the magistrate and the doctor.

The reality of the matter was that the beneficiaries of the Act became strongly biased along racial lines. It meant that in effect only white middle class women could afford the termination of pregnancy.

Of the approximately 1000 legal abortions performed in South Africa every year, the majority are performed on white middle class. Race

and class determine women's ability to obtain legal or safe abortions (WHC 1994: 2).

It is common knowledge for example that in terms of both facilities and personnel, white hospitals were better equipped. In addition many white middle-class women could afford to travel overseas to seek termination of a pregnancy. For black women the inaccessibility and non-affordability of the service did not mean that the service became unsought. On the contrary, 'other ways' were found to perform abortion. But often these 'other ways' were unsafe and dangerous. Backstreet abortions were performed under very unhealthy and unhygienic conditions. It is estimated that of the 200 000 illegal abortions performed in South Africa annually, 10 percent of women who went for these died as a result (WHC 1994: 2).

The SACC (1996:5) offers different statistical estimates but the picture is not a sobering one either. Commenting on the pending passage of the new Bill it observed:

We are convinced that the effective result of failing to pass the proposed Bill (as opposed to the ideal, desired reality in which no abortions take place) is to perpetuate an already untenable situation. Cognisant of the facts before us (up to 45 000 mostly illegal terminations per annum, approximately 425 officially reported deaths, and a morbidity rate of around 50% or more otherwise, we believe it is incumbent on the state to provide accessible facilities and safe procedures to handle terminations.

When the WHC met in December of 1994 they produced the Abortion Policy Document. In that document an observation is made that, "The decision whether to have children is fundamental to women's equality and to women's physical, psychological, social and economic well-being" (WHC 1994:1). The document (1994:1) further acknowledges the disadvantaged and marginalised groups within the female population,

Teenagers, rural women, illiterate women generally present at health services late in their pregnancy and it is therefore essential to extend abortion services till 24 weeks.

It is these stark and unsavoury realities that the present government had to consider. While not giving a free licence to act sexually irresponsibly, "The choice of the lesser evil must be accessible, otherwise the greater evil will occur" (Nürnberg 1996:4).

The point being argued by Nürnberg is that in an ideal society abortion would not be a good thing to do. However, our societies are far from ideal and we often have to face real life choices which do not always confront us with ideal options. Abortion is one such reality of being human in a human world faced with tough human choices. It may be that in such instances it becomes a lesser evil, even if an undesired one. Such is life as we know it and as we live it and not as we dream of it. I can fathom no 'greater evil' than a child conceived in a sexual abusive encounter, born by an unemployed and homeless mother. The child grows up in squalor conditions, joins gangster operatives and end up robbing a bank. Following a shootout with police five innocent bank customers, all bread winners of their families are killed and the young man receives life jail sentence. It is instances like these and similar ones which in hindsight make abortion a 'lesser evil'.

2.4 The Choice of Pregnancy Termination Act (No. 92 of 96)

I now proceed to give account of the new Act. Firstly, I consider the new Act provisions on those who want or have to procure abortion services. Secondly, I give an evaluation of the new Act weighing both its strengths and weaknesses.

The new Act on abortion came into effect as from 1 February 1997, after two years of national policy process on abortion had taken place. An *ad hoc* Committee on Abortion and Sterilisation had been convened by the government in 1994. This action was taken in order to review the old Act which has been discussed in the previous sub-section. The parliamentary *ad hoc* Committee invited and received both written and verbal submissions from the interested and/or affected parties. The outcome of these proceedings produced the final document with certain changes made on the original Bill.

2.4.1 Abortion provisions as contained in the new Act

The new Act as it now stands allows abortion under the following terms:

- (a) *0-12 weeks* of gestation by a medical doctor or registered nurse, trained for the procedure, on the *request of the woman*.²²
- (b) *13-20 weeks* of gestation only a medical doctor can perform the procedure²³ This will be done if:
 - (i) There is a risk to the *woman's mental or physical health*.²⁴
 - (ii) There is a substantial risk that the *foetus* would have *severe physical or mental abnormalities*.²⁵
 - (iii) If the *pregnancy* is as a result of *rape or incest*²⁶
 - (iv) If the pregnancy would severely affect the *social and economic* status of the woman.²⁷
- (c) *20 and above* termination of pregnancy can be done if:
 - (i) The *woman's life* is in *danger*.²⁸
 - (ii) *Severe malformation* of the *foetus*.²⁹

22. Section 2(1)a.

23. Section 2(1)b.

24. Section 2(1)i.

25. Section 2(1)ii.

26. Section 2(1)iii.

27. Section 2(1)iv.

28. Section 2(c)i.

29. Section 2(c)ii.

2.5 A critique of the new Act

Biale (1995:4) has reminded us that,

Law sometimes lags behind social reality and sometimes anticipates it. At times attitudes change in popular mores and behaviour and only later enter codified law, while at others a law may permit much more than popular attitudes may tolerate.

The questions we may ask ourselves then are: Is government's new Act in fact not a radical Act at all but rather a lagging behind our social reality? What is going on in the 'women's world' concerning unwanted pregnancies? Is the new Act a codified law which reflects already changed popular mores and attitudes about abortion? To what extent does the new Act merely reflect what is *de facto* a reality? Does the Act in fact permit more than popular attitudes will tolerate?

These are penetrating questions which unfortunately are more easily asked than answered. Most people will agree that the new Act is controversial. The controversy surrounding the new Act has been both inside and outside of parliament. So controversial in fact that the African National Congress (ANC) feared that when the Bill came to a vote some of its own members of parliament would vote against it. The ANC forbade its members a free vote on the basis of conscience.³⁰ Needless to say that the opposition parties lambasted the ruling party because they had hoped that they could 'steal' votes from it and thus 'abort' the Bill. But that was not to happen.³¹

2.5.1 Health personnel and question of accessibility

The new Act is still in its early stages since being passed. This makes it difficult to assess in terms of how it is being received and implemented, especially by the health workers themselves. But some resistance and dissenting voices have been

30. See Hansard for the second reading of the Bill: National Assembly debate (Tuesday, 29 October 1996), p.4767.

31. When the Senate voted on the Bill the votes were as follows: For: 49, Against: 21. See Hansard (Tuesday, 5 November 1996), p.3986.

heard within certain health institutions and centres and certain health fraternities. For example, the presentations made by certain organisations to the parliamentary Ad Hoc Committee testify to the misgivings certain sections of the South African communities still harbour concerning the new Act.³² This was the case even as the new Act was being debated as a Bill.

A regional obstetrician in KwaZulu-Natal Department of Health, Larsen (1996:1,3) wrote:

This Bill will provide for abortion on request in the first 3 months of pregnancy, and for *trivial reasons* [emphasis mine] up to 5 months (20 weeks), ... This is *bad enough*, ... I know of a number of state hospitals where all the medical staff have indicated that they are not able to participate in doing abortions on request, ... It also seems to me that the draconian penalties in the Bill can only be in place to enforce a very unpopular piece of legislation. This exposes the ideological, rather than the democratic basis for the motivation of this Bill.

Such a strong and emotionally charged language gives an indication of the difficulties that lie ahead in the implementation of the new Act. In the Umtata, Eastern Cape, a senior gynaecologist, Dr Mbambisa, recently made it public that he was opposed to the Act and vowed that he will not be party in making such operations which, according to him, "violated the vows I made that I will save life and not injure or inflict pain on it" (Mbambisa, 1997). Similarly there have been dissenting voices within the health profession across the length and breadth of this country.

Herein lies the difficulty. If women who present themselves in the hospitals designated for procuring abortion are turned away because the hospital personnel will not help them, the plight of these women is even made more greater and tragic than before. It would seem that backyard abortions might still persist a little longer than the government had hoped for. Sadly, the persistence of unsafe and unhygienic abortions only means continuation of complications to women's lives which might even constitute deaths-just as before!

32. See Hansard (Tuesday 29 October 1996 and Tuesday 5 November 1996).

Here let me add that the number of state hospitals that have been earmarked for abortion operations is a cause for concern. For example, in the entire Eastern Cape only three hospitals have been gazetted. There is only one in the former Transkei, Umtata General Hospital, one in the former Ciskei, Cecilia Makiwane Hospital and one in Port Elizabeth, Livingstone Hospital. A vast number of rural and peri-urban women will still be unfairly disadvantaged in terms of accessibility of the service.

One may say that these are a set of problems unrelated to the Act itself which is a good, liberal and advanced piece of legislation. Given time, everything will 'fall into place'. The infrastructure will be built causing people to commute more efficiently. Health workers will change their negative attitudes and begin helping those who present themselves for abortion due to various personal reasons. Abortion clients will be shown enough care and sensitivity and will be treated kindly by health workers. Everything will just be fine at the end - just be patient, there is no reason for alarm! Senator Makoela (*Hansard*, Tues. 5 Nov. 1996:3975) addressing these concerns from the opposition parties defiantly announced:

Prophets of doom have been harping on the lack of facilities, the lack of personnel, the lack of this and that. However, in South Africa we have been living with a lack of everything. Our people have been so deprived in their lives they have never come to experience what abundance means.

I realise that points of debates in parliament are always overstated due to political bickering. However, it matters less how genuine or misplaced that line of reasoning is. The fact of the matter is, it is the lives of people's with which we are dealing with. Women outside centres of urban/city environment will not be pacified by empty promises. Equally, their rights and safety are as equal as anyone else's. They should not be discriminated against due to reasons of demographics and lack of financial self-reliance and independence. Otherwise, what the new Act has succeeded in going is once more to highlight class distinctions and differentiation in social status. It is of deep concern, for example, that recently, it has been announced that Chris Hani (Baragwanath) Hospital is operating under dire financial constraints and extreme shortage of personnel.

By March 1998 it is estimated that it will be over 800 million rands in overdraft. Subsequently, the hospital management has taken a decision that only emergency operations will be performed from now on. All other sections of the hospital have forthwith been temporarily suspended indefinitely.³³ The situation looks bleak as well in the Umtata General Hospital where there is a low work ethic, staff absenteeism and understaffing. It is these realities that make one wonder about the effectiveness and competence of state machinery in translating the legal rights into actual life needs of the people.

I now proceed to consider more specific and substantive areas in the law itself which are a reason for deep concern.

2.5.2 The right to counselling and utility of abortion service

The Act states that the government shall seek to promote a provision of a non-mandatory and non-directive counselling service before and after the termination of the pregnancy. The qualification that the counselling to be provided will be neither mandatory nor directive, was an amendment to the Bill.

A clause from the Bill which required the advise of a social worker prior to termination of pregnancy between 13 and 20 weeks was dropped. The reason given for this action is that such a requirement: "... would have limited access to termination services for many rural and peri-urban women." The Act goes on to explain that, "The current reality is that there are no social workers in many communities. Parliamentarians felt that this situation should not limit a woman's choices."

Here we have rather a curious scenario of events. On the one hand we have a woman who may have counselling service offered to her but does not need it. Consequently the government makes counselling services not to be mandatory. On the other hand we have a situation where a woman may need counselling but is unable to access the service because she lives in rural or peri-urban area.

33. SABC, TV News, (16 Dec. 1997).

Consequently the government removes the counselling services of a social worker as a requirement, so as not to prejudice those women.

The question for me becomes, who is being empowered here? Are the rights of rural/peri-urban women not in fact being sacrificed for political expedience? It would seem to me that they are. Or how does one explain the conspicuous silence of the Act on who then will provide the woman with the required emotional and psychological support? The concerns expressed here are inconsequential for that woman who does not need such a service. The presumption is that she can access the service at any time she so requires. For a woman who stays in the city or urban environment and is financially self-reliant, various professional support systems are available. One cannot say the same for rural/peri-urban women.

It has to be questioned whether the absence of the social worker is not in fact the very limiting factor to the woman's choices in considering to terminate pregnancy. As I understand it, one of the functions of a social worker in this context would be to help the affected woman to consider all possibilities open to her and their consequences in relation to the continuation or otherwise of the pregnancy. The social worker guides the woman's sense of judgement which might be overwhelmed by emotional and psychological factors due to her condition. For those women who desperately need such a 'listening ear', to whom do they turn? It has to be borne in mind that by and large these are women whose spouses or partners are likely to be culturally conservative and steeped in tradition and therefore are unlikely to be open-minded and sympathetic.

It would seem to me that a moral distinction has to be made between one who will not have counselling because she does not want it and the one who will not have it because she can not have it. There is a question of power relations at play here which is bound to fundamentally divide women into those financially able and those financially dependent. In the absence of a professional assistant, such as a social worker, it cannot be claimed that rural/peri-urban women will not be disempowered in terms of informed decision making in deciding on abortion. The rights of these

women might be compromised and not strengthened by lack of professional assistance.

My concerns are shared by the SACC. In their presentation before the Bill was passed into law, they called for the implementation of certain alterations to the Bill. These changes related to the services of a social worker for the purposes of counselling service. The SACC suggested that churches, other religious bodies and competent non-governmental organisations (e.g. Rape Crisis), and other professional people with training should carry out the tasks envisaged for the social worker. This addition is made necessary according to the SACC due to the inadequate delivery of state social services to many people particularly among those who are the poorest, and for whom the Bill is intended.

Our view is that this situation is unlikely to change in the near to the medium future. ... We regard this as important because we regard the adequate and widespread provision of counselling services as vital in making sure that a decision to terminate a pregnancy is as informed and responsibly taken as possible (SACC 1996:2).

Lindegger (1996:58) has pointed out that the post-abortion status of the woman depends, among other factors very much on the type of counselling the woman receives before abortion. He writes:

It is possible to optimize the psychological outcome of elected abortion, ... by preparing candidates for the process of abortion, including making them to make an effective pro-abortion or anti-abortion decision ... One of the most important factors in this regard is enabling (or empowering) the pregnant woman to make the decision herself free from external pressure of any sort.

In as much as the new Act makes no clear provision for the client's counselling both prior to and after abortion, I have grave misgivings. I believe that my misgivings are not unfounded as I have sought to show by the arguments provided above. I now proceed to consider Choice of Termination of Pregnancy Act (TOP) as it relates to minors.

2.5.3 The question of minors

Furthermore the new Act also states that:

Minors will not be forced to get consent from their parents, but should be advised by medical practitioner or midwife to consult with their next-of-kin before the pregnancy is terminated.

The rationale behind this clause is that if a daughter is in good communicative relationship with her parents or guardians, she will nonetheless consult with them.

It would seem to me that critical to this discussion is the status given to the conceptus in this new Act. If the conceptus is treated as a mere extension of the woman's body then logically it is not a serious matter who decides to abort and under what conditions. But if the conceptus has a substantive value, due consideration has to be taken in making a decision to terminate pregnancy. Abortion is always an extra-ordinary measure under extreme circumstances requiring an objective evaluation of factors involved, in as much as this is possible. I want to argue that a minor who is distraught with the reality of being pregnant is ill-suited to make a decision to abort alone.

The following examples will help to illustrate my argument. A person under 21 years cannot enter into contractual agreement because the law considers such a person to be a minor. A person under 21 years will require parental or guardian consent to enter into marriage because the law considers such a person to be a minor. A person under 18 years old cannot vote or hold a driver's licence because the law considers such a person to be a minor. And yet, a minor under this law is not mandated to consult with her parents or guardian to terminate pregnancy. My submission is that the decision to terminate abortion is no less morally and legally substantive to require consultation, short of parental consent. But again, my argument is only as valid as the status one assigns to the conceptus, an argument which the new Act entirely avoids.

The SACC (1996:2) also takes issue with government on the question of minors who seek abortion:

We would like to see that a minor, who might not have trusted parents, family members or friends with whom she can consult, is strongly encouraged to seek counselling before making a decision to terminate. In fact we are very much of the view that counselling for minors should be mandatory. If one cannot vote as a minor, it seems a contradiction to say that one can make the decision to end a potential or actual human life without further ado ... We note with approval that mandatory counselling for minors in respect of this clause is also the position taken by the Abortion Rights Action Group.

2.5.4 The rights of the male spouse

The other point of concern I wish to raise relates to the new Act's silence concerning the rights of the male spouse to the conceptus, even when couples are married.³⁴ This again lends credence to my suspicion that the parliamentarians have adopted a laxity of attitude in dealing with the status of the conceptus in the whole debate. One is drawn to the conclusion that the new Act as such sees the conceptus as no more than a mere extension of a woman's body on which decisions rest entirely with her. The Bill (1996: 67) clearly states, "No consent other than that of the pregnant woman shall be required for the termination of a pregnancy". The doctor becomes a factor only in so far as medical expertise become relevant.

Hauerwas (1991:199) has made the point that:

People contemplating abortion do not ask if the fetus has a right to life, or when does life begin, or even if abortion is right or wrong. Rather, the decision seems to turn primarily on the quality of the relationship (or lack of relationship) between the couple.

These comments seem to endorse the Minister of Health, Dr Nkosazana Zuma's argument that there is no reason for the woman to conceal the decision to abort other than the already strained relationship between couples. Dr Zuma has continued to argue that under these conditions it would be inappropriate for the new Act to insist that the woman must consult with her partner as a condition prior

34. The points of objection are raised in this sub-section only tentatively and will be argued in some detail under both chapters four and six.

to the termination of pregnancy. In my opinion there is no need to seek to refute the premise on which the argument is based. However, the conclusion reached is the one I would contest, namely, that the woman is to make the decision alone.

It would seem to me that the new Act does not fully appreciate the fact that abortion involves deep attitudes of one's self-identity, others and society. As such, it should not be a lonely journey travelled by an anguished loner. The situation is not helped but perpetuated if the woman conceals the deed from her 'significant others' such as her parents, guardian or a partner. But I must add that I do not hold an absolutist position which rejects abortion almost on any grounds. An adoption of such a position prior to any presenting case, unfairly prejudices the woman even on deserving cases like saving the life of the mother.

However, having said that, I find the relationship between the conceptus and male parent a contentious one. The new Act does not accord the male spouse any rights, even within marriage. While the conceptus, according to the law may not have any legal rights, the same cannot be said of the male-partner in terms of his biological claim to the conceptus. Anyone must concede, law included, that pregnancy is as a result of a contribution both from the male spouse and the female partner. Surely there is a legal argument that the man has an interest in that pregnancy and must therefore be heard. The conceptus is not a tumour protruding out of a woman's body as a result of some sort of a disease, thus privileging her exclusive rights to do as she so pleases with it. This is all the more true within the African culture where the pregnancy of a wife is seen as means of the almost 'rebirth' of one member of the ancestry coming through the new-born.

Usually, each clan or family has its expectant sign which accompanies each pregnancy as a demonstration that the wife has truly been accepted in this family including her progeny. For example, among the Majola clan a certain type of snake will appear to the pregnant woman as a confirmation that the unborn 'child' is being received to this family even by the living dead. This is why even a deformed or disabled child among some African families is regarded as a good omen to the family because through this child good luck is given by the ancestors to those who

treat her/him kindly and with affection. It would be hard to conceive how in that mindset anyone can argue persuasively that a woman has the sole right to decide on the future of her unborn.

It is true that the new Act seeks to conceal the identity of the woman by making a provision that,

The identity of a woman who has requested or obtained a termination of pregnancy shall remain confidential at all times unless she herself chooses to disclose that information (Bill on the Choice of Termination of Pregnancy, 1996:71).

Notwithstanding these assurances, questions may well be asked how 'safe' is that 'secret'? How long can a relationship based on secrets and concealments survive? Does the fact that the woman is operated by someone she may know in her local hospital not undermine the 'secrecy' clause, if not in fact, at least in the perception of the woman concerned?

2.5.5 Conscientious objector

One last point to highlight relates to the conscientious objection clause which appeared in the Bill but has been removed in the new Act. The clause now reads: "Health providers will not be obligated to perform this procedure or refer a woman to another provider". The motivation behind this change was to protect the constitutional right of health providers against violating their own freedom of conscience. Practically it should prevent certain health workers who do perform terminations from being labelled as 'abortionists' by their colleagues who object.

I fail to understand how such will prevent stigmatisation and labelling. It has not happened elsewhere in the world. In a democratic country where there is freedom of speech and freedom of expression 'labels', like, 'abortionists' cannot be completely avoided. Indeed, my concern is not with labelling, much as it has to do with accessing the service for the rural/peri-urban women. If health providers can refuse to perform the procedure without having to refer the woman, surely this will disadvantage other women even in justifiable and most deserving cases. Again the

affordability of the service shifts in favour of those women who have the financial means and independence to travel and seek TOP services away from their home areas.

2.6 Consolidation

No one would question the fact that the new Act goes a long way to address the 'wrongs' which were highlighted previously under the critique of the old Act. Presently those who are against this new Act lament that it goes 'too far'. Suddenly, these people remember nostalgically the 'good old days' when human life was not treated so 'cheaply' as it now appears to be under the present government. A rejoinder may well ask what kind of a government was the past government that valued 'unborn' life, while it trivialised the 'lived' life of millions of its African citizens?

Richard Hooker was correct when he exclaimed, "All change is inconveniencing-including change from worse to better" (cited in Marty 1984:12). What makes this sadly true is the fact that people generally speak of the past in a simple spirit of nostalgia. As Marty (1984:7) has observed that often when people talk about the past, "What they are doing is using the rust memory, not the real steel of remembering. Surface impressions crowd out life as it really was."

The new abortion Act has taken seriously the racial and the socio-economic unfair advantages which in the previous Act saw thousands of African women risking and even losing their lives through backyard abortions. Surely that situation could not be tolerated nor could it be left to perpetuate itself endlessly. It must also be considered that the ANC which is now the ruling party in the government of National Unity had made abortion one of their campaigning issues. They had said then that they would rewrite the abortion Act so that it would be both accessible and affordable to the majority of South Africans whose health was put at great jeopardy under the old regime.

However, as we have noted earlier, under the present arrangement, not all women have equal accessibility to abortion. But those who are vehemently opposed to

abortion will not lament that situation as it serves their own interests, regardless of the nature of its impact on those affected. As for the churches, they find themselves in an untenable position. Abortion is no longer debated in the corridors of power but is a reality that present itself within the walls of churches as its membership throngs hospitals, abortion clinics and other health services seeking abortion. Over 1000 abortions, for example, are reported to have been performed at Umtata General Hospital since they began receiving clients. Umtata General Hospital is currently second to Chris Hani Hospital which is reported to have done over four thousand abortions between February and October 1997.

If these statistics are anything to go by, the questions raised under the critique of this new abortion Act may well be answered by now even if tentatively. It could be argued that the new Act merely reflects, not what is *bad* with the government so much as it reflects what is *wrong* with our society. When staring at the mirror of morality it is not the government's face that appears but the face of our society in pragmatic realism which perhaps shocks and dismays some of us.

Is it not hypocritical of the churches to expect the government to legislate on private morality while it is by and large their membership that goes out to seek abortion? Are churches in fact not admitting failure that the power of the 'cloak' has dissipated and can no longer control or influence its flock? There might be more truth in the remarks made by Smith (1994:14) than churches would care to admit that, "It is far easier to criticize an institution one is not identified with than to engage in self-criticism and this is one of the pitfalls confronting denominational positions on abortion."

It is with these thoughts in mind that I now proceed to consider the views of the Christian communities on the issue of abortion. In this regard one needs to consider why churches speak in so many different and sometimes even contradictory voices on this issue. Both the strengths and weaknesses of Christian traditions on this topic will be highlighted. It would be ambitious, if not premature of me to hope to galvanise divergent denominational positions into a common approach on the issue of abortion.

First and foremost, my audience is the black church, both its leadership and the ordinary membership. I want us to recover something of the 'African humanity' to our shared and common identity. Within that 'Africanness' together we might discover resources which can be mobilised to address issues such as abortion. Such an approach is very much contextualized, but not necessarily exclusive. It is with this line of thought that I now go on to examine the churches' views and positions on termination of pregnancy. I want to interrogate these churches in terms of their 'African situation' which I want to argue, must inform their deliberation on the issue of abortion.

CHAPTER THREE

JUDEO-CHRISTIAN ANTHROPOLOGY AND HUMAN RIGHTS

3.1 Introduction

The notion of human rights with its consequent Bill of Rights in the South African constitution as adopted in October of 1996 undergirds the final product of TOP passed in Parliament.

This chapter attempts to critique the concept of human rights by juxtaposing along side it theological anthropology and abortion discussion. I start with a conceptual analysis of the concept of human rights as enunciated within the 'Western liberal' understanding. Then I will attempt to show how the concept of human rights relates to the abortion argument. Different positions from various church traditions will be outlined with the intention of investigating how Christian ethics has responded or might respond to the abortion debate vis-a-vis human rights.

As noted earlier in the introduction one of the challenges confronting our country is how to accommodate the concept of human rights which is essentially Western and individualistic with the African anthropological viewpoint and cultural practices which are essentially communal

My immediate interest is to compare and contrast the concept of human rights within the Judeo-Christian estimate of the same concept. This is done with the eventual intention of locating this concept within the debate on abortion.

3.2 Enlightenment and the notion of human rights

The term 'Enlightenment' generally refers "to a period in European intellectual history which spans the time from roughly the first quarter to the last quarter of the eighteenth century ... It is to Kant that we owe the slogan of the Enlightenment - *sapere aude* ('dare to know') - which sums up its essential secular intellectual character." (Hamilton 1995:35). This 'daring to know', as Kant put it, was almost

a revolt against the church's authority and its monopoly on the accumulation of knowledge and dissemination of information. Enlightenment brought about "a new framework of ideas about man [*sic*], society and nature, which challenged existing conceptions rooted in a traditional world-view, dominated by Christianity." (Hamilton, 1995:36). It is during this period of the Enlightenment that individual rights became elevated, borne out by the concepts of freedom, equality and toleration. The problem that developed was how to define and manage the relationship between society and the individual in a way that enhances the quality of life of the individual. The term 'human rights' emerged much later within this context.

The conceptualization of human rights as conceived by Euro-Western countries is clearly spelt out in the 1948 Universal Declaration of Human Rights document. The basic tenets of this liberal understanding of human rights can be summarised as follows: Firstly, a belief in the inherent dignity, equality and freedom of all individuals. Secondly, individuals are autonomous beings with self-fulfilment as a fundamental priority. Individuals direct their actions, dispose of their possessions and conduct their lives without having to depend on the consent of any other person. Individual persons must be free to pursue what they consider to be good for themselves and must be free to pursue it, limited only by the commitment not to infringe on another citizen's liberty. Thirdly, basic human rights can be universalised. In other words, all human beings everywhere and at all times yearn to be free and pursue to their individual fulfilment as described under the two points above.

The human rights then as defined in Western democracy emphasizes a concept of inherent or inalienable sovereign entitlement of individuals. This viewpoint of human rights is arrived at by a free act of judgement in reference to other possible views which one could reach. This position gives us an indication of the specific conception of what it means to be human. In other words, rights are humanly constructed and are not bestowed on us from our biological nature as a given. Human rights are established within Western countries with the proviso that human beings are validly conceived as autonomous beings constituted for self fulfilment.

I now proceed to explore Western conceptualization of what it means to be human and how that understanding results in the concept of human rights such as have been outlined above.

3.3 Enlightenment and notions of personhood

The concept of African 'personhood', although often spoken about, can be precarious. This is specially true when 'personhood' is used in relation to 'the self'. What are these concepts supposed to denote in relation to being human? A person like Hume, as cited in Bakhurst (1995:7) has argued that "The very idea of the self is a philosopher's fiction." Hume's rejection of 'the self' is based on his reasoning that "since no idea of a 'self' is given in experience (we experience only our mental states, we do not experience ourselves [or our 'selves'] experiencing them), no meaning can be annexed to the term." (Bakhurst 1995:7). On the grounds of this reasoning, Kant was led to postulate that a 'transcendental ego' constitutes who we are as human beings. This transcendental ego although not given in experience, is a precondition which presupposes the possibility of experience. Bakhurst (1995:7) uses a metaphor to elucidate this debate: "a self (or person) is that to which mental states belong."

The discussion of the self (see section 4.2.1 below) runs the danger of aspiring to a concept of self that is fundamentally disembodied and something ethereal. And yet even those who aspire for a self that is experientially situated would be reluctant to accept a notion of self which identifies a person entirely with his/her physical being. But these problems are occasioned by a reasoning which sees one's body as something one owns. There is a line of thinking that argues for abortion on the basis that being *her* 'body', the woman has the sole right to decide whether she desires an abortion or not. This line of argumentation runs the danger of 'objectifying' rather than 'subjectifying' the body. This is where there is a fundamental difference between the way Africans think about what constitutes a person *vis-à-vis* the Western conceptualization of a person.

It was the French philosopher, René Descartes, who set the tone for the aggressive Western pursuit of what has come to be characterised as the 'Cartesian self'.

Descartes proudly announced: But what am I? A thing that thinks. I think, therefore, I am! (Hall, 1994:121). The Cartesian self promotes metaphysical dualism represented in mind and body as distinct substances fundamentally separate from each other. Bukhurst and Sypnowich (1996:23) explain: "In this view the self is essentially and profoundly asocial phenomenon. Each self inhabits its own subjective realm and its mental life has an integrity prior to and independently of its interaction with other people".

In a similar vein Hall (1994:119) observes: "It is now a common place that the modern age gave rise to a new and decisive form of individualism, at the centre of which stood a new concept of the individual subject and its identity." This new conception of the individual, according to Williams, exhibited itself in two distinct meanings. Firstly, it advocated the subject that is indivisible, an entity which is unified within itself and cannot be further divided. Secondly, it illustrated an entity which is singular, distinct and unique (cited in Cochrane 1996a).

Understandably, this quest for individuality arises out of our passion as human beings to defend our individual freedoms. With these liberties we are then free to make our choices without being induced by 'big brother'- the state, church, traditionalist or any other such external authority and powerful figure. Indeed, the periods of the Renaissance and Enlightenment were therefore liberating. They sought to empower individual persons as they began to question and became suspicious of institutions which wielded authority and power at the expense of individuals, while claiming to exercise that power on people's behalf. However, this Western perspective of self sees a resurgence of self identity which culminates into an individualism sealed and complete, independent of the other. Does such a self exist? Within the African view of the world and the individual's place in it this atomised self is fraught with difficulties and is unacceptable.

for an African context. You think of you and the baby or the father etc.

The rejection of such a concept of self, it is interesting to note, is not only confined among the African traditional community but is equally denied from another perspective. Sigmund Freud, for example, writing from a Western psychological perspective theorised that our sexuality, and the structure of our desire, are formed

on the basis of the psychic and symbolic processes of the unconscious, which function to a 'logic' very different from that of reason. Hall (1994:121), commenting on Freud's observations, remarks, "Freud's theory ... plays havoc with the concept of the knowing and rational subject with a fixed and unified identity - the subject of Descartes' "I think, therefore I am'".

Ricoeur (cited in Cochrane 1996b) distinguishes two distinct dimensions on the question of selfhood. These distinctions, while similar to those of Williams, also move beyond. Ricoeur identifies firstly what he calls '*sameness*' (*idem*-identity), which he describes as having characteristics of "permanence in time, an unchanging self, a core unaffected by time and space, and therefore unaffected by the other" (Cochrane 1996b:133).

Secondly, Ricoeur identifies what he calls '*otherness*' (*ipse*-identity) which "evokes both self and the other-than-self simultaneously, ... selfhood implies an other" (Cochrane, 1996b:133). It is this second characterisation of identity that coincides with the African understanding of what it means to be human. A relentless chase for individualism within the African traditional community is a cruel hoax that dehumanizes the person. The old African adage is: *umntu ngumntu ngabanye abantu* (a person is a person through other persons). Perhaps the English equivalent is the proverb accredited to John Donne that: No man [*sic*] is an island entire of self. But each is part of a continent.

The question then arises as to whether the concept of human rights does not arise from a particular culture and not necessarily from the Scriptures or the Christian faith in general. In short, how is the relationship between Christianity (in its manifold expression) and the notion of human rights to be understood and lived out existentially? The question raised here is a complex one. The difficulty arises from the point made earlier, namely, that Christian faith is diversely populated with many denominational dogmas. Major Christian traditions on this question will be presented. I will briefly outline the positions of these different Christian traditions, including and starting with Judaism.

3.4 Judaism: Abortion and human rights

The Torah is the prime source from which Judaism draws its teaching on human rights. According to Judaism, the ultimate basis of any valid human rights is God. The ideal human life is that which corporately reflects God's own nature which is holiness and righteousness. Human rights are only legitimate as they advance issues of justice, holiness and righteousness of God on earth. "The principal human right according to the Torah", writes Prozesky (1984), "is life itself and the priority of human personality and morality and not so much property." With these terse comments on Jewish perspectives on human rights I wish to proceed to the debate on abortion. The discussion on human rights will be taken up in the debate itself on abortion where I make my evaluation of human rights within Judaism.

The morality and ethics of the Jewish faith in as far as it addresses abortion evades any neat and simple summation. This is due to the many and diverse Rabbinic sources from which the issue of abortion has been addressed. I must point out that a discussion of abortion within Jewish religious community can only be appreciated when discussed within a broad overview of Jewish teaching on human sexuality. The scope of my study does not allow me to do that. However, mention must be made that abortion is here discussed under the proviso that traditional Jewish communities assumed that sexuality within marriage was the only legitimate expression of love between couples and all other forms of sexual relations were deviations.

Biale (1984:197) observes that, "Normative sexuality in the Jewish law is heterosexual, initiated by the male, and confined within marriage." Leviticus 18 gives a list of sexual prohibitions and transgressions (*giluy arayot*). These sexual prohibitions were seen as central for the stable establishment of a social order (albeit, as interpreted by the male biases) and to the separation of the Israelites as a nation distinct from other nations. In other words, these religious laws had strong political and social motives and intentions.

However, starting from the Scripture itself, it would appear that the Torah addresses accidental termination of the pregnancy (Ex. 21:22-25), and elective abortion only indirectly.

The text in Exodus 21 indicates that in the biblical law a fetus has the status of an object, not of a person. This fundamental principle informs the discussion of abortion in Jewish law even when the abortion is intentional and not accidental (Biale 1984:220)

A clear distinction in the Torah is drawn between the pregnant woman and the conceptus she carries. For example, according to Exodus 21:22 the expulsion of the conceptus carries no capital punishment. On the contrary, the death of a pregnant woman (*nefesh*) by her pursuer carries capital punishment. Biale (1984) suggests that this unequal consideration is due to the Jewish patriarchal reasoning that the expulsion of the conceptus is an injury to the woman's spouse (husband) and not to the woman (wife). Thus, an accidental abortion denies the man of his progeny hence the culprit has to pay the man's loss.

The secondary sources of Jewish law such as the Talmud, regard the conceptus as part of the woman's body (*ubar yerekh immo*), hence, it carries no independent status. David Rich (1993:14) remarks, "Judaism holds that a fetus is not human life because the Talmud distinguishes between actual and potential (human) life." In terms of the Talmud, for example, the conceptus has no legal rights such as inheritance and holding of property because it cannot be said to be an actual human person. The Talmud also rules that a new born is not considered viable (*bar kayma*) until it has lived 30 days. Before that it is still considered a stillborn (*nefel*) because its life is merely a continuation of the vitality of its mother that still remains with him/her. Explains Biale (1984: 221), "At this stage the fetus is only a 'separate body' and not 'an independent life'".

In terms of the Talmud, therapeutic abortion performed to save the life of the woman and preserve her health is condoned. The Halakha also concurs when abortion is done to save the life of the pregnant woman. However, the Halakha and Mishnah go further to stipulate other possible reasons for procuring abortion. These documents allow for abortion under 'a great need' as would be considered as such

by each Rabbi in every specific circumstance. These circumstances would vary from illegitimate child, unwanted child, or a severely handicapped conceptus (Biale, 1984).

The limited nature of this study does not allow for detailed comments on the Jewish religious attitude towards abortion. The picture presented above is a condensed version of a very complex structure of rules, arguments and counter-arguments from different Jewish schools of thought. I have attempted to encapsulate salient features which I consider to be significant pronouncements on the subject without the refinements of their actual application. The points highlighted here are also critical for my main argument of trying to establish a uniquely African response to the abortion debate. The Jewish viewpoint on abortion has exposed serious cultural predilections and biases. Simply isolating verses and transplanting them to our contemporary culture and society will undermine the very intention of biblical material and do disservice to the communities that are being addressed. This point must be heeded, especially by those who hold fundamentalist views from any religious persuasion or any Christian community.

The following example will help to elucidate the point: Much has been said in terms of Christian anthropology how the Old Testament, especially the creation story sees human life as sacred. In this regard one is constantly reminded that human rights receive their endorsement from the Hebrew Scriptures which see human beings as created, "in the image of God" (Gen. 1:26). Churches have used this passage as a cornerstone to respect and value human life and to fight racism, gender discrimination and so forth. Equally, abortion has been condemned as a direct violation of that biblical principle, namely, that all human life is sacred and God given.

In a rather ambitious pronouncement Hovland (1997:407) has stated:

Abortion is the easiest problem to solve, viewed from an ethical side. The question is to evaluate life against life, in spite of the fact that the one life in question is not yet born. Medically and ethically, life starts with conception ... To rule that life starts with the twelve week after conception nor any other date previous to birth-is totally

arbitrary and cannot be defended on any moral grounds, Christian or not.

Surely, the above are all noble sentiments. However, any cursory observation will quickly reveal the great chasm between the verbal citation of the creed and the actual actions of the same. What must we make of the children of Israel for leading wars, attacking cities, maiming wives and children, and grasping the land of 'pagan' nations - all this in the name of God, who led them 'by a mighty hand'? Was it because the people of these lands had an 'inferior' image of God than the one they had? Was it because God does not value all life equally? And again what must we make of Yahweh sending an angel of death with a mission to slay the firstborn of the Egyptians in order to free the Israelites from oppression and exploitation by Pharaoh?

We may assume that the Jewish community did not believe the principle of the sanctity of life to be absolute. Indeed, no society has. All societies condone killing if done in self defence. The self defence theory may apply to the individual or to the nation. States have police force and soldiers not only to keep peace and security inside but to prevent and pre-empt attacks from outside. Many countries in the world exercise capital punishment on those members of its society who commit heinous crimes against their fellow beings. Indeed, even in South Africa, one repeatedly hear calls for the reintroduction of the death penalty. A conclusion has to be made that the Jewish concept of human rights is far from a carefully worked out system. Indeed, it is full of ambiguities even ambivalences. Its ethics of abortion as outlined above testify to both these ambiguities and ambivalences. I now proceed to examine the notion of human rights within the Christian religion whose faith is mediated by the Jewish religion with its sacred writing, the Bible.

3.5 Christianity and the notion of human rights

In the Christian faith there is a wide variation of views in regards to the concept of human rights. Differences range from the nature of human rights themselves, their basis and their scope. In the following sections I present and contrast the Roman Catholic views, the Protestant perspectives and the African independent churches'

views on human rights. Having outlined the different paradigms on human rights, implications will be drawn for what this might mean for the ethics of abortion within these varying Christian traditions.

3.5.1 Roman Catholicism and human rights

According to the Roman Catholics the justification of human rights has traditionally been defended within a theology of 'the law of nature' as expounded by Thomas Aquinas. The idea of the law of nature also became a basic tenet in John Locke's philosophy of 'natural rights' which we have come to know as 'human rights'. The law of nature is a reference to the power of reason and ability to think critically which, according to Locke is something implanted in human beings by God. This law of nature, Little (1990:63) notes "undergirds Locke's theory of natural rights."

Human reason, according to Locke neither dictates nor establishes the law of nature but it discovers and interprets it. Reason itself functions by working in conjunction with 'sense-experience' which leads to the knowledge of the natural law. To recognize that one is bound by law is, "to know before hand that there is a law-maker, i.e. some superior power to which [one] is rightly subject" (cited in Little 1990:64). This is where the idea of revealed/natural theology emanates from within the Roman Catholic tradition. In other words, reason 'correctly' applied should inform human beings of revealed natural laws which humans must perceive as established by God. Human reason derives its insights of right and wrong from 'revealed' theology and natural law which are both placed at human disposal through divine authority. This divine authority is made accessible to human beings from the sacred writings, the Bible.

Roman Catholics reason that in order for human beings to flourish and fully use their God-given reason, they need an environment that is free from any kind of domination or coercion. This is where the concept of human rights finds content and expression within the Roman Catholic thinking. Human rights according to Roman Catholicism do not depend on any human organization for their existence, but on God. These rights are made known to us through natural law which in turn is based on natural theology.

See notes
by Alice

Accepting the axiom that human beings are created by God, Roman Catholics argue that it can be inferred that God requires people to be free to develop to their full potential human capacities. In order for this to happen, humans have a right to justice. Justice guarantees an environment in which uninhibited growth into maximised potential may take place. Recent developments within the Roman Catholic thinking on the subject of human rights, Little notes, have led them more and more to the conceptualization of human rights as desirable for the purposes of the 'common good' theologically conceived. What this means is that mutual love and human solidarity are seen as the precondition for any adequate theory of human rights.

... in such a view, rights are not spoken of primarily as individual claims against other individuals or society. They are woven into a concept of community which envisions the person as a part, a sacred part, of the whole (Little 1990:60).

The ultimate aim then of human rights, within this thinking, is to acknowledge human indebtedness to God, who is the source and recourse of all life and all that is good.

3.5.2 Roman Catholics and their ethics of abortion

I find out more on this
The Roman Catholic stand on abortion has been consistent, very direct and uncompromising in its wholesale opposition to and condemnation of abortion. The Bishops who met in the Second Vatican (1965) declared that "Abortion and infanticide are abominable crimes". In 1995, Pope John Paul II poignantly recalled the passionate plea of Moses, "See, I have set before you this day life and good, death and evil ... I have set before you life and death ... therefore choose life" (Deut.30:15,19). The Pope then concluded in the words of Saint Peter, "We must obey God rather than men" (Acts 5:29) (O'Gorman 1996:18).

In order to appreciate this unbending attitude of the Catholics on abortion one must understand something about the nature of their reasoning on moral/ethical issues and how this impacts on the abortion debate.

Christian moral reflection has historically tended to rely heavily on the insights of moral philosophy. Traditional moral philosophy has been divided between the teleologists (as pioneered by Aristotle) and the deontologists (as pioneered by Kant). Deontological type of moral philosophy deals with human conduct in terms of a conception of duty which is considered to be imperative because it is right. Long (1996:6) characterises this approach as focusing on the question, "What is the right in an obligatory sense?."

Deontological theories hold that there are ethical propositions of the form: Such and such a kind of action would always be right (or wrong) in such and such circumstances, no matter what its consequences might be (Long 1996:6).

The theological ethics of Roman Catholicism have been based on this philosophical judgement, while that of the Protestants have been formulated on the teleological frame work. The basic tenets of this thought (i.e. philosophical judgement) is based on the assumption that reason offers adequate insights in giving humans moral reasoning to guide their human conduct. Human reason, according to Roman Catholicism, derives its insights of right and wrong from 'revealed' theology and natural law, which are both placed at human disposal through divine authority.

The argument as deliberated here requires of logical necessity that certain basic human rights become inherent in view of our having been created human by God. Included in such a list would be the right to *life* which would be *inviolable*. Commenting on the formulation of ethics within the Catholic Church, Biale (1984) notes that at best Catholics employed Scripture in a proof-text fashion to corroborate arguments that were based on other reasons.

Their ethics were based on 'natural' law tradition which rested on certain metaphysical assumptions ... That reality is orderly, that it is intelligible to human reason, and that it presses upon the human will the obligation to act in accord with it. Furthermore that these essential are discernable by the gift of reason common to human beings by virtue of being human. The bible, until recently, has not been an essential source of knowledge requisite for ethics (Biale 1984).

The question of the absoluteness of rights among Catholics on the basis of natural law and revealed theology, according to Nicolson , has remained an inconclusive debate. However, Nicolson (1984:8-9) adds that human rights within the Catholic views

... are extended by a kind of practical utilitarianism, i.e. whatever will enable humans to grow into their God-given potential becomes a right ... [however] human rights have to be exercised in obedience to God and not in any false autonomy.

While I appreciate the argument that human rights, especially as the term relates to abortion, could be misused, even abused, to advance 'false autonomy', the question is: Is abortion, under any circumstances a display of human beings 'playing God'? This is what false autonomy implies, that is , acting as if human beings have no higher moral authority to turn to expect themselves in all and on any moral matters.

The Catholics would probably respond by pointing out that since God is the creator of all human life, only God has absolute control over all life and all creation. The fact that human beings are created in the image and likeness of God (Gen.1:27-29), merely gives human beings "a ministerial lordship over life not an absolute control" (O'Gorman, 1996:19). The incarnation of Jesus is argued for as further proof of how sacred creation and human life is.

In other words, since God has become human in the person of Jesus, this creates a very important and precious solidarity between all human beings of all time and place, ... Thus all human life is sacred and inviolable in its origin, in its very existence and in its ultimate destiny (O'Gorman 1996:19).

Furthermore, the injunction, "Thou shall not kill" (Ex.20:13; Mt.5:21; Rom.13:9) gives a blanket ban on all wilful direct killing, at least, according to the Catholic teaching.

There is one critical issue we must raise concerning the arguments as presented above. Admitting that the conceptus has life, does that life amount to 'human' life

and equally human person? When does life of the conceptus become human life and what constitutes 'personhood'? These are by no means easy questions to settle. Generations before us and generations yet to come will likewise continue to raise them. But these are critical and fundamental questions in the abortion debate and every culture and each people have given their thoughts within the confines of their knowledge at a given moment of their history.

The respective positions on abortion and when life begins have been summed up by Donald Kaul:

On one hand we have those who believe it [life] begins at the moment of conception and that your average fetus will probably become Albert Einstein, given half a chance. At the other extreme there are those who believe life begins at birth and before that, an unborn fetus deserves all the consideration generally reserved for pet rocks (cited in Rich 1993:134).

Catholics have developed a four stage argumentation to respond to the questions set above. Firstly, that the life contained in the fertilised ovum is neither that of the father nor that of the mother, but is a new life. Secondly, this new life is a human life, for it cannot be made human later, if it were not human already. Tertulian put the argument this way, "... even the man [sic] who is yet to be born is a man, just as every fruit is already present in the seed" (cited in Smith 1996:11). Fletcher (1982:140) describes this position as "the substance doctrine" born out of the "sacramental theology of transubstantiation" whereby life *in potentia* is treated the same as life *in situ (in being)*. " Thirdly, that the new life is the life of an individual, because identity or individuality is established from the moment of conception. Lastly, that this new human life which comes into existence at the moment of conception is a person.

However, through this rationalising the Catholics found themselves embroiled in an argument of 'animation' of the conceptus. One view argued that 'ensoulment' of the embryo occurs at the moment of conception. In this regard Catholics spoke of 'immediate animation' which made the conceptus a fully human being since it had a soul. Other views within the Catholics advocated a position of 'delayed

animation'. According to this view, the conceptus develops from being *nondum formata* (not yet formed) into being a 'rational' soul once it has been animated. Tertulian made no distinction between a formed and unformed conceptus.

The Roman Catholic response to the debate as to when does an embryo assume the status of a human being as outlined above, is fraught with difficulties. For example, assuming then that the conceptus becomes a human being at the moment of conception, questions then may be raised as to how one explains the formation of identical twins. At what stage and how does it occur that one fertilised egg splits into two human beings? Does the soul split as well? Can we then assume that even in cases of spontaneous abortion (miscarriage) even at the earliest stage of zygote that an actual human life has been terminated? Why is it that neither the concerned family nor the church conduct proper burial rites in such instances?

In order to overcome the difficulties raised above it is perhaps better to take the second position of arguing for later animation. The problem though is: How can we positively know when ensoulment has taken place? How do you diagnose or detect the presence or absence of the soul? On what basis is the presence of the soul an indication of human identity and personhood?

No attempt will be made at this stage to respond to the multi-faceted nature of issues raised here. Indeed, it does not appear that any definitive answers presently exist that would put the matter to rest. What this section has done is to alert the reader to the fact that the Roman Catholic Church has responded to the debate on the question of human life in a particular way as informed by their readings of the Bible, their acceptance and interpretation of medical evidence, and their strong philosophical rationalising tradition. I want to argue that the Catholic responses are just one way of seeing reality and they are not definitive in any way. Secondly, they are grounded and fashioned within a particular mould of Western thought patterns and specific cultural perspective. The Western thought patterns and cultural perspectives to which I refer to is the Enlightenment notions of human rights outlined earlier and its notions of personhood. In this regard they cannot claim an automatic universal appeal and acceptance. The Christian responses,

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especially from Western-European traditions, cannot be super-imposed to the extent that they begin to construct reality within the African context. The Western-European and African construction of reality must dialogue with one another without one assuming unfair and undeserved dominance. I now proceed to investigate the Protestant ethics of abortion as informed by their varying conceptualization of human rights.

3.5.3 Protestantism and human rights

The Protestant Reformation was vigorous in its introduction of democratic elements into its ecclesiology. This was as a result, to a large extent, of its reaction to the Roman Catholic hierarchical and clericalistic form of church order. However, the theological genre of the traditional Reformers which emphasized the 'fall' and 'depravity' of human reason brought about a "low anthropology coupled with the view of God as absolutely sovereign" (Richardson 1984:10).

Consequently, remarks Biale (1984) for the mainstream Protestantism, biblical literalism supplied the content for both doctrine and ethics, both faith and life. For ethicists of this persuasion, the bible is taken as a book of revealed morality. The Enlightenment notion of absolute human rights founded on human sovereignty was rejected within the Reformed tradition as contradictory to the 'Scriptures' which became the supreme authority.

Commenting on the theology of the Protestant tradition, Richardson (1984:11) writes, "In a strictly theological sense humanity, standing as sinful before a just God, can have no rights whatsoever." The mainstream Protestants then, in terms of their theological construction resisted to speak of human rights. Rather Barth speaks of 'divine commands', Brunner of 'orders', and Bonhoeffer of 'mandates' (Nicolson 1984).

According to Little (1990) the writings of Stanley Hauerwas represent this traditional Protestant ethic. Hauerwas displays similar scepticism concerning the existence of a common 'natural' morality which can be said to transcend cultural

and religious diversity. Little (1990:59) presents Hauerwas as insisting that there is no 'universal morality' but 'fragmented world of many moralities'.

On the other hand, Protestant theologians within the tradition of 'liberal theology' do not dismiss outright the concept of human rights. Rather they employ, what Little (1990:59) calls, "an alternative language concerning human rights, which replaces the 'bourgeois liberal emphasis on individual liberty and private property.'" The primary concern of this section within Protestantism is the emphasis on 'economic rights'. These rights are considered, "the fundamental rights of and the means of life, and are thus a necessary condition for the satisfaction of all other rights." (Little 1990:59).

Unlike mainstream Protestantism, liberal Protestantism does not hold a fundamentalist position on the authority of Scripture. Nor does it share a strong tradition of natural law as does Roman Catholicism. Their basis for human rights seems to be provided by a feeling that human rights are in a general way supported by the Bible, particularly by the New Testament, and required by a "'fatherhood of God', 'brotherhood of man'" (Nicolson, 1984) religious outlook. Biale (1984) seems to agree noting that Protestant ethics have tended to reflect the dominating (and opposing) movements in the American church life between the fundamental and the liberal or 'modernist' positions.

Protestant liberals differ widely from the fundamentalists. For them biblical morality resides not in its specific moral instruction on highly particularised matters but in its revelation of the overarching norms, values and ideals binding for the Christian life. These norms, values and ideals in so far as they appear from the bible need to be interpreted and applied because the bible is culturally conditioned in its ethical pronouncements and instructions. The prophetic corpus in the Old Testament and the decalogue are utilized by liberal Protestants as filters for and pointers to the religious roots of human rights. According to this view then, as Biale has noted, the bible is seen not as a book of 'revealed' morality, but as a book of 'revealed' reality.

3.5.4 Protestants and their ethics of abortion

The two Protestant positions on human rights outlined above have direct implications on how the Protestant tradition responds to the abortion debate. As would be predicted, the Protestant fundamentalists vehemently oppose abortion, supposedly on Scriptural grounds. While not employing the same vocabulary as that of the Catholics, mainline Protestantism sees enough explicit evidence from the bible which is cited as 'proof-texts' to teach against abortion. Based on what they call 'revelational grounds' as against the 'metaphysical grounds' (Fletcher 1982) mainstream Protestants argue against abortion. In his defence of the position of the 'Protestant Church', Karl Barth (1982:92-93) wrote,

Our first contention must be that no pretext can alter the fact that, ... one who destroys germinating life kills a person and thus ventures the monstrous thing of decreeing concerning the life and death of a fellow human being, whose life is given by God and therefore, like his or her own, belongs to God.

Fletcher (1982:82) underscores the ambivalences characteristic of the Protestant fundamentalists position as he remarks that: "It is amusing to observe how Protestants who fiercely reject the substantive theory at the altar accept it in the uterus; they repudiate transubstantiation sacramentally but swallow it whole fetally." I find the fundamentalist position, especially as enunciated by Barth fundamentally lacking in its pastoral dimension. This is because, according to this position, abortion would only be considered if it remained an '*ultima ratio*' and even then "genuine exceptions will thus be rare" (Barth 1982:99).

The ultimate rationale, according to Barth (1982:101), is, as he himself put it, "For all concerned what must be at stake must be life against life, nothing other or less, if the decision is not to be a wrong decision and the resultant action murder either of the child or the mother." Barth insisted that even where the mother's life was in danger the decision would not be automatic that the life of the conceptus is to be sacrificed vis-a-vis that of the woman. "It cannot be left to the mother herself, ... but is a matter for the experienced and trained physician" (Barth 1982:99).

Contrary to the position outlined above, the liberal position within Protestantism allows abortion on qualified , but less stringent terms. For example, in cases of rape, incest, severe conceptus abnormality and saving the life of the woman, abortion is permitted. David Rich (1993:141) has noted:

The Evangelical Lutheran Church in America, the Presbyterian Church-USA, the United Methodist Church, and the Episcopal Church condone abortion in certain circumstances, though each have anti-abortion factions.

However, the socio-economic reasons for the termination of pregnancy are more controversial with one section allowing it while others oppose abortion. It is interesting to note that in the South African context the position of churches as regards abortion seems to agree with the one outlined above by Rich. For example, I am aware of the Lutheran Church, the Anglican Church, the Methodist Church and the Reformed Presbyterian Church as being sympathetic to women procuring abortion under certain circumstances as those cited above. The SACC (1996) which is representative of a broad Christian body has also added its voice as condoning termination of pregnancy under the same conditions cited above.³⁵

3.5.5 The African independent churches: Abortion and human rights

The position of the African independent churches (AICs) on both the issues of human rights and ethics of abortion remains a problematic one. There are at least three reasons for this difficulty. Firstly, these churches by and large have remained at the periphery of all theological debates. They have not yet produced a system of thought which debates issues in an academic and systematic fashion.

Secondly, the AICs seem to defy easy categorization as either fundamentalist or liberal in their views on many of the theological issues, including issues of human rights and abortion. Because of their tendencies to be mute on issues, often one

35. For a detailed discussion on the Liberal Protestant ethics of abortion, see James M. Gustafson: A protestant ethical approach. In: *Abortion: The moral issues* (Batchelor E. Jr. (ed). The Pilgrim Press. New York 1982), p.189-209.

‘reads things into’ them which may be far from a true reflection of what is actually going on.

Thirdly, when statements are made on, for example, the issue of abortion, these pronouncements appear to be more on the African conception of reality while uttered within the biblical paradigm. For example, in the interviews conducted I was often told that abortion is wrong "because it is a spilling of blood of a human being and the Bible forbids such action." Pushed further, on asking why spilling blood is necessarily wrong the interviewee would answer along these lines: "Life is a gift from God and our ancestors. Our duty is to live our lives in a manner that does not upset them because they are alive and their dreams and ambitions are fulfilled through us. *Ukuqhomfa*, (literally meaning ‘to kill from the inside’) frustrates the plans our ancestors have about our future through the gift of a child."

Responses like these seem to suggest that human rights are here perceived in an entirely new perspective. One’s human right does not and must not override that which the ancestors have of him or her. What our rights are, are defined *for* us and our duty is to *execute* them. Human rights in this context seem to be for the *person-in-community* rather than an atomized self aggressively seeking fulfilment regardless of , or (worse still) at the expense of the other. In this case, the ‘other’ may even be the ancestor whose needs and claims upon us must be honoured.

The implications of the views expressed here in relation to abortion are far reaching. To start with, the sacredness of life is based on its estimated value, a value which is assigned by the ancestors. This means that if it is deemed that the ancestors may in one case or another, sanction or condone the taking of life, one would do that without feelings of guilt. The question becomes: Are there such instances and under what conditions? These are the questions that I will discuss further in Chapters Four and Six.

3.6 Consolidation

The foregoing sub-sections have brought our attention to the diversity of voices within the Judeo-Christian community in addressing ethical issues such as abortion. How is the Scripture to be appropriated for the formation of character and conduct in the Christian community? To what extent is a democratic culture conducive for cultural expression of a people? Does the dawn of democracy with modernity herald the doom of people's cultural practices and the inevitably waning of religion? Is it possible to hold the three, people's culture, democracy (and modernity) and Christianity in a healthy creative balance?

These are the questions I raised at the beginning of this study. I continue to explore these questions as I will soon proceed to examine the African anthropology and the concept of human rights. Our investigation of the Judeo-Christian tradition on human rights and ethics of abortion has so far, I would say, yielded no conclusive verdict on these pertinent questions.

However, the sheer diversity of views on the perception of human rights and ethics of abortion must have unsettled any attempts at ill-thought and impromptu solutions. For now it would seem that the wide Judeo-Christian endorsement of human rights (admittedly in different variations) is based not on biblical hermeneutics *per se* but rather an *historical* and *cultural* factors. This view of human rights emerged in Western Europe and America in the Renaissance and Enlightenment periods as a response to despotic monarchs and a reaction to divine rights of kings within those communities.

On the other hand the African societies confronted different challenges which led them to finding different solutions. For example, the different understandings of the concept of human rights between the two worlds is not a mere accident of history. The political, social and economic factors must be accounted for. But even more fundamental is the different paradigms of seeing and understanding reality.

It must however, concern all the churches deeply whether from the first or the third worlds that despite their condemnation or guarded acceptance of abortion,

statistics on abortion continue to rise dramatically. Worst still, statistics seem too indicate no difference between those who claim religious attachment and those who claim no faith at all.

The message for the churches is simple: Their carefully crafted church policy does not seem to be reaching the general membership in terms of their existential experiences. It would seem that the distinctively male leadership in the church is not quite attuned with what is going on in the women's world. Rich (1993:141) notes that members of the Catholic Church more closely reflect the views of society than the views of the church on almost all questions,

On the question of abortion, for example, statistics taken in the United States revealed that 71% of American Catholics oppose the excommunication of a doctor who performs abortion; 73% oppose such action against the legislator and 76% opposed such action against the 'mother'.

Surely it must be disconcerting to the Catholic leadership that its membership continue to use contraceptives despite the churches' rejection of artificial ways of family planning. It must be disconcerting that a majority of its membership continue to do abortion despite the fact that the church teaches against this practice. These observations equally apply to all churches whose conservative views on ethical and moral issues continue to be disregarded by its general membership. The churches must be bold enough to be 'daringly' secular (Nürnberger 1994) and confront questions of human sexuality with pragmatic realism.

An objection one constantly hears in relation to abortion is that the conceptus is an innocent victim in this instance and should therefore receive legal protection. Rich (1993:142-3) has put the argument even more forcefully:

The fetus has no opposition opportunity or say-so at all; to argue that a child would rather be aborted than born into poverty, without consulting the child, would appear nonsensical. Naturally the fetus cannot be consulted, yet if any fetus could respond, likely none would choose death ... Precisely what does the right [for the mother] to choose mean; ... what is being chosen? How can a human being choose the death of another human being without that human being's consent?

Rich's choice of words is deliberately sensitised. He does not talk of the conceptus as a 'foetus', but a 'child. Or of 'termination of pregnancy' but of 'killing'. Like many anti-abortionists, he rejects what he describes as 'sanitized language' which, according to him often characterises abortion debate.

The objections raised above by Rich cannot be dismissed lightly. They are sincere and genuine, even though overrated. I say overrated because, no one really chooses to die, even a convicted criminal who, many would argue, deserves to die. Given a choice he (often they are 'he') would prefer to live. Secondly, it is true that the socio-economic reasons, even among those sympathetic to women wanting abortion are the most controversial ones. Therefore, to summarily dismiss abortion on these grounds is playing on the emotions of the people without examining both the merits and demerits of each given case. Lastly, Rich himself, like many anti-abortionists, does not give every life an absolute right to live. The question is, under what conditions can that right to life be withdrawn? To this question I shall now turn, as I seek to utilize African traditional resources.

CHAPTER FOUR

AFRICAN ANTHROPOLOGY, HUMAN RIGHTS AND ABORTION

4.1 Introduction

In the previous chapter an introduction was made in relation to the Western understanding of what it means to be human and the conceptualization of human rights within that context. I now wish to juxtapose that notion of self with the African conceptualization of the same. In many ways this entire study depends on this particular endeavour. The study has now advanced to a point where its justification has to be demonstrated within the African paradigm of perceiving reality.

My intention in this chapter is to suggest entry points to that daunting challenge. These entry points will provide what I called in the introduction of this study boundary framework that would inform our discussion on abortion within the African perspective. The justification and further development of the points raised here will wait for Chapter Six which provides a comprehensive presentation of the discussion.

I will now proceed to discuss critical issues that define the identity of the African personhood upon which this study is conceived. This is done with the eventual goal of situating the discussion on the termination of pregnancy in terms of the new Act. Other critical issues which were cited in the first chapter of this study will receive attention as well. Among these are, the question of the patriarchal nature of African culture, African understanding of and practice in social relationships, woman's fertility, relations between couples and the general well-being of persons and society. These themes are addressed at appropriate places within the context of the basic theme of the right for women to procure abortion as a human right.

4.2 African notions of self and personhood

The biblical inquiry and its version about the nature of human beings is theologically significant in as much as it has been deeply controversial. The perplexing question raised by the psalmist centuries ago continues to confound theologians, philosophers, natural scientists, historians and social scientists.

The psalmist asked with an upward gaze, "What is man [*sic*] that thou art mindful of him, and the son of man that thou dost care for him?" (Psalm 8:4). Different inquiries to this critical and penetrating question have provided competing and sometimes hostile responses one to the other within the academic discourse. Equally, different cultures have inevitably produced different responses to the same question.

4.2.1 The social self versus the atomized self

Similar to other cultures,³⁶ the origins of life are explained in Africa by the use of myths. The mythical nature of these stories does not belittle their credence as serious ways of explaining not only the genesis of life but the meaning of it in relation to human existence. These myths are culturally conditioned attempts at explaining the mystery of life and the human place in it.

In the myth there is something of a communal memory of the group as it has grappled with the questions of its and all human origins, life on earth, being (what is the human person?) and even the hereafter (Setiloane 1986:3).

Setiloane (1986:3) gives two popular stories among the traditional peoples of Africa about the emergence of 'the first people' on the earth. Without going into detail about these stories, the first popular one among the Nguni people is the myth that "the first people emerged out of a bed of reeds." There used to be both a family and a national celebration of this myth which, to date, has disappeared save among the Swazi people (Umhlanga Festival). "*Umhlanga*, the festival of the reeds, is significant in that it is a religious festival, enacting the event of the 'first people

36. For example, the Hebrew culture and its origins of life in the Genesis story.

coming out of a bed of reeds as related in the myth" (Setiloane 1986:5). The other mythical story is that "Our first parents came out of a hole in the ground" (Setiloane 1986:5).

The significant factor about both stories is that Africans invariably consider group and community to be the essence of being human. Setiloane (1986:9) accurately reflects this critical factor when he writes,

In these myths whether the first people came out 'of the reeds' or 'a hole in the ground', it is as a community of men, women, children and animals that they came. Gregariousness is an African characteristic ... Every person is related to another. These relationships; 'by blood', 'by marriage' or by mere association are emotionally seated and cherished dearly.

The African social self is predicated upon the notion that the formation of *self* presupposes and is constituted by the *other* and this movement is a process of becoming. In the African view of the world, the community refers to more than a mere association of atomic individuals. So that when we talk about social self we are not merely referring to the aggregate of individuals constituting an average whole. The concept of social self suggests a community wherein one lives in communication and in communion, thus opening oneself up to be shaped by the stories and life experiences of others. And yet even more, this communication and communion occur beyond the community of the living. Neville Richardson (1995:41) displays appreciable insight in his observation that:

It hardly needs stating that community is the *sine qua non* of African ethics. Yet this is perhaps one of the difficult points to grasp, shaped as our thinking is by that shibboleth of the Enlightenment-the autonomy of the individual. What makes the concept and the experience even more elusive is that traditional African community is more than just an intense belonging to the particular group of people presently living. It includes those about to be born and, most emphatically, the ancestors.

Compared to the Western epistemological inquiry of self, the African paradigm presents quite a radical and provocative shift. It helps to shift from clinging to an atomised self-identity. In this case, the relational selfhood becomes associated, not

just with other persons but with the whole experiential and existential milieu of what it means to be *alive* and not just to be an *individual*.

4.2.2 African personhood

The African understanding resists the notion of personhood that creates subject-object dichotomy of one's constitution of being. Our *beingness* is not an entity one 'possesses'. In contrast, African personhood, according to Setiloane (1986) might be thought of as a field of force, or energy wherein one's life experiences become centred. But this field of force not only condenses one's life experiences into a focal point. Equally, this centre of gravity which constitutes personhood emanates from, and beams outside of itself, an energy that participates in the construction of the life of other persons while itself being transformed in the process. In other words "The human is not only 'vital force', but more: 'vital force in participation'" (Setiloane 1986:14). The notion of participation reinforces the African stress on belonging, a person-in-community.

Setiloane (1986:13) introduces the concept of *seriti* as a critical component in the discussion of African understanding of personhood. The concept of *seriti* which is equivalent to the Nguni word *isithunzi*. He notes that physically perceived, according to African understanding the human person 'is like a live electric wire which is ever exuding force or energy in all directions.' This perception of self is borne out of the belief that the human person is 'mysterious' in as much as being human makes one participate in the drama of the mystery of life. What makes life mysterious is due to the fact that life whether human or not springs from one fountain of life, the 'Source of all Life - Modimo' (Setiloane). In this regard Setiloane (1986:13) gives a Sotho expression which says, *Motho ke Modimo*, meaning: "The human person is that Energy or Force, that is Modimo."

While I concur with the general presentation of Setiloane of the African perception of personhood, I wish to engage him on two areas of concern. I begin with the expression *Motho ke Modimo*. In my discussions with my Sotho speaking colleagues they were all adamant that this expression is foreign to them and it goes beyond the common notions of African personhood among the Sothos. I learnt with

interest from my colleagues who come from the central province of Kenya where Gikuyu is the spoken language. They informed me that they do not have an expression equivalent to the one given above by Setiloane, but there is an expression they use, namely, *Mwanake nikienyu kia Ngai*, which could be translated either as, a young man has a piece of God, or a young man is part of God. This phrase, my friends informed me, is given to young men collectively (and never individually) who have demonstrated in war qualities of courage, endurance and resilience.

"Because young men survive war, they are seen as almost invincible and indestructible, therefore they are honoured by that phrase." What I find illuminating in this Gikuyu phrase is that even where 'divinity' is associated with humanity it avoids direct linkage with a singular person. Again the point being emphasized is that, an individual is a person-in-community and one finds completeness within the social self.

In the Nguni languages an expression is used that, *u-mntu unobu Thixo*, meaning, a person has divinity. This is more moderate and accurate, I would say compared to the Sotho expression as suggested by Setiloane. The meaning conveyed in the Nguni languages is that every human being has the potential in himself/herself to be good and thus participate and share in the goodness of God. My point is that much as we share in God's beingness we are not God but have the opportunity and capacity to participate in the *God* by working consciously to display those qualities which are the qualities of God. Much as humanity participates in divinity, a distance also exists between the two.

In this regard the Sotho expression is, *Motho o na le boModimo* which would be equivalent to the Xhosa term defined above. My Sotho colleagues were more receptive to this phrase than the one Setiloane uses. It is true that in the Xhosa language one sometimes hears the expression: *u-mzali wakho ngu-Thixo wakho*. This is a term used by the elderly people when instructing a young wayward person and it means that, your parent is your God. The message being conveyed here is that the respect one shows to one's seniors is the best testimony that one knows

or believes in God. Faith in God is not an abstract assertion of a creed but a demonstration through works of the faith one professes. Again the expression that *u-mzali wakho ngu-Thixo wakho* cannot be construed to literally suggest that a parent or any senior person singularly contains in oneself an essence of God.

Secondly, there is something I find fundamentally amiss in the African personhood in the terms in which Setiloane has posited it. Much as I appreciate the profundity of describing African personhood in positive terms of "something divine, sacred, weird, holy; all qualities of Divinity (Modimo)" (Setiloane 1986:13), something else needs to be added. In the Nguni languages to describe a person as a person with *isithunzi* can have a negative meaning as well as a positive one. For example, a person who is feared is said to have *isithunzi*. This usually is a reference to the belief that the person concerned is using *imithi* (bad medicine) to command respect and fear from his associates and rivals. We can, therefore, conclude that *isithunzi* represents a terrain where both the forces of *goodness* and the forces of *evil* coincide. One's personhood is, therefore, not something whose upward progression in character and full-realisation is guaranteed.

Mandew's (1997:53) discussion of African cosmology and spirituality, and how these notions relate to the human person seems to support the views expressed here.

The human being's journey through life is by means of rites of passage. As the human being progresses through life through this relationship the humanness in him is increased and tends towards fullness and completion. This can also be called a cycle of becoming.

This is why a person who has demonstrated qualities of full humanity, in as far as this is possible, such a person will be recognized by saying: *Ngu-mntu ke lo*, or *ngumntu lo nto*! Both these phrases mean: This is a (true) person, a reference to a person of 'substance' who can be trusted.

Accordingly, African personhood, I wish to contend is *visionary* enough to anticipate and aspire to that unity with the 'source of life' which compliments and completes the desired 'self'. But it is *pragmatic* enough to recognize the ambiguities

and even contradictions which militate against that goal thereby frustrating its final realisation. It is against this background that the discussion on abortion finds its relevance. If African personhood was something already realisable or not under any threat, then each person would so exude that godly perfection that human ills were vanquished. However, this is not the case.

Realism informs us that notions of participation and belonging essential towards the completion of 'the other' are challenged from every corner thus leaving many with feelings of alienation and less than a person. A holistic African concept of personhood informs us that there are destructive forces, human and otherwise which relentlessly seek to exclude instead of including, which seek to minimize instead of maximizing the human potential.

Therefore, a presentation of African personhood in its holistic approach opens possibilities for a consideration of and a dialogue on abortion which otherwise would be impossible. African women need to be taken seriously in their search for resources which might enhance their human potential as persons with the essence of positive *seriti*. African men have to begin to realise the fact that their positive *seriti* can only be liberated to blossom when that of the womenfolk is given the same freedom.

It is with this in mind that the next sub-section examines the concept of human rights within traditional African society. Such an investigation will inform us as to what extent we can meaningfully draw from the past to live our present in the hope of a future whose promise is a better quality of life for all. This hope of a better future is expressed within the Christian faith in terms of 'eschatology' which to be true to its biblical tradition is an already experienced reality.

These observations have direct and far reaching implications for our topic on abortion. The immediate question which confronts us is: What then becomes of individual rights in relation to abortion on demand with this understanding of self? This is the question to which I now turn.

4.3 African notions of human rights

A critical question that must be addressed at this stage is to what extent did the concept of human rights inform traditional African societies in terms of their dealings both on a personal and social level. In other words, did traditional African culture have an inherent concept which could be equated to the present day understanding of human rights? This question is important in our discussion of the reproductive rights which the constitution assigns to women. Therefore, in an attempt to dialogue with both the African customs and traditions on the one hand, and the liberal democracy on the other, this becomes a legitimate question.

The responses which have been offered to the question stated above have been characterised by Silk (1990:290) in this manner:

African culture was or is compatible with human rights, but with an African conception of human rights-consistent with the African context-not with the inevitably Western norms embodied in the International Bill of Human Rights.

In his discussion of human rights in Africa, Shivji (1989:69) defends this position on the basis that a conceptualization of human rights, "should be historically situated and socially specific." He argues that unlike in Europe where the democratic process emerged driven by the rising bourgeoisie, in Africa this has not been the case. On the contrary, it has been the ordinary people, workers and peasants who have been the vanguards of political change and social justice. Hence, democratic gains such as those to be realised after the struggle must first and foremost be in the interest of the people as a group and not so much as individuals. What this means is that "counter-posed to the individualist/liberal paradigm must be the collectivist/revolutionary conception (of human rights)" (Shivji 1989:71).

The second point Shivji raises is the very definition given to the term 'right'. He argues that a right as conceived within first world democratic countries fundamentally refers to 'legal entitlements' arrived at by use of reason or natural law. Hence the dominant outlook on human rights in terms of this perspective

centres around the concept of human nature conceived in abstraction both from history and as well as society. On the contrary, within African understanding rights are akin to righteousness and justice and are therefore a means of struggle towards a comprehensive well-being of a people.

Following an analysis of human rights given above the question that arises is, what then are the values associated with human rights within African perspectives? What elements constitute human rights with regards to African view? Silk (1990:303-15) offers a cluster of elements which have been given as dimensions which define and give meaning to human rights within African societies. Among these are, traditional customs and systems, traditional African humanism, Institutional participation in decision making process, human dignity and so forth.

Space does not allow me to offer a detailed critique of the African understanding and practice of human rights as outlined above. However, two points of concern must be raised even if not elaborated exhaustively. Firstly, to argue that African notions of human rights must in essence differ from those of Western and European countries raises concerns as to whether relativism of human rights as suggested above does not in fact defeat the very purpose of having *human* rights in the first instance. In this regard Paul's (1990) discussion of human rights within the African context is useful.

Paul (1990:213) is suspicious of the often stressed "contradictions between the goals of promoting universal human rights, generating economic development, and respecting indigenous cultures". He argues that rather than perceiving human rights as 'Western' or 'individualistic', the focus should be on the underlying interests that universal rights are designed to protect.

These underlying rights, such as rights relating to participation, basic human needs, security in land, equity, and 'development processes', Paul argues, are not alien to African people and their culture. Furthermore, it is rather a contradiction that those African political leaders and some intellectuals opposed to human rights have on the other hand embraced 'modern' political states which can be argued to be 'culturally

alien' to African traditions and customs in terms of their economies, politics, organisational structures and systems, and so forth. One has reason to doubt the honesty of the arguments of those opposed or reluctant to embrace International human rights *per se*.

Secondly, if indeed traditional African societies are inherently amicable to the concept of human rights, as qualified by authors such as Shivji (1989), why is it that Africa has not been able to resuscitate these human right values akin to its traditions and customs as purported above? Even more specifically, what has been the Africa's attitude on women and their rights, such as the reproductive rights? This is the question I now turn to as I continue to investigate and seek a discourse on African ethics of abortion.

4.3.1 Women's reproductive and fertility rights

"The man is made for all women, the woman only for her husband personally" (Fehr, 1968).

Fehr cites the above proverb as having been common among the traditional Xhosa men. Judged from this axiom it would seem that traditional African communities offer little if any respect to the woman's rights of equal partnership to the love relationships. Indeed, both boys and men were encouraged as a general custom to date and court many girls/women. If one failed to live up to these social expectations, he would be called *isishumane* or *ubhulu*. These are very condescending words intended to castigate and demean the individual concerned.

On the contrary, the situation shifts dramatically when it comes to a woman. A girl/woman who has more than one relationship is considered *isifebe*, a very derogatory word which can only be used in a despicable manner. Such a woman will be referred to as *iwule/unondatshaza*, both very strong, disapproving words which convey actions of one who indiscriminately and immorally sleeps around, overcome by her sexual potency.

Remarking on the nature of relationships between Xhosa man and a woman, as he observed them, Fehr (1962:62) wrote,

The feeling of tender and pure love, based upon respect derived from common accord and moral value, is unknown to the Kaffirs; only the necessity for collaboration in domestic life, coupled with natural urge for propagation, appear to give rise to a union between a young man and a girl, which afterwards in marriage attains a lasting stability through mutual interest.

Perhaps, Fehr could be excused for assuming that the situation described above reflected the general attitudes of both men and female. He obviously was oblivious to the feelings of the general Xhosa women. But to suggest that feelings of 'love, common accord, and moral value' among the Xhosa people were 'unknown' is to be less than economic with the truth, to say the least. Any constructive critique about a particular people has to be informed by an appreciation, even if lacking in respect, of where they come from in terms of a whole host of factors, not least their religio-cultural and socio-economic imperatives. Fehr's discussion seems to be lacking in these dimensions.

However, it would be hard to defend equality between men and female in the context of relationships among many African traditional societies. This application of obviously double standards has prompted many critics of African traditional culture to accuse African men in general of being the only beneficiaries in any further perpetuation of this system. One cannot help but feel in solidarity with the sentiments sometimes expressed that men's criminality towards their female counterparts is often concealed under the pretext of culture. Again I restate the remarks made in the introduction of this study that it would seem to me that the protest against abortion by African clerics is fundamentally cultural rather than scriptural.

The portrayal of the nature of relationships in the foregoing pages would suggest that traditional African culture has been systematically discriminative against women. A charge has to be put against the traditional African regulation of relationships that often they have accentuated male's gains while tending to

devalue the contribution of the female partner. Always it is the man's progeny that has to be sustained, his *son* that must inherit the inheritance of his father even if his mother is still alive. Always it is the woman who must keep her virginity, who must take the risks and responsibilities of pregnancy. It is she who must account for, and becomes a victim of, barrenness in the marriage. Only the woman endures the vilification even of spontaneous abortion. Suspicion abounds that somehow she deliberately stage-managed the whole thing. In matters related to human sexuality most cultures have tended to judge a woman guilty until she is proven innocent, while the man is assumed innocent until found guilty.

This display of attitude concerning women in so far as it relates to the AmaXhosa is directly informed as a result of gender construction which places women in an unfair position in comparison to their male counter-parts. Gender as a social construct is heavily influenced by the culture of the people. The following subsection examines this phenomenon.

4.3.2 Gender construction among the AmaXhosa

A proper understanding of what gender is cannot be achieved without, at the same time, reflecting on the culture of a people. This is as a result of the fact that gender construction is directly linked to a people's cultural practice which, in turn, reflects a people's self understanding. In defining culture, it is perhaps more useful to describe it by listing those elements which can be said to make up people's total capital in terms of their cultural ethos. According to Morris (1994:9). Such elements would include,

... people's elaborate procedures of social ceremonies, such as marriages, burials, celebrations, parades, festivals and the rest; the intricacies of social etiquette, manners and protocol; the complexities of social costume, uniform decoration, adornment and display.

In terms of the above description of culture it becomes clear that culture is a people's 'way of life'. But this is not all. Culture also becomes an instrument whereby one's power and status in society is determined and defined and this is where the question of one's gender becomes critical. "Gender refers to the

definition of the identities, roles and relationships of women and men that is formed by culture and society." (Cousins *et al* 1996:35). Cousins *et al* (1996:35) continues to observe that, "The role of men in the family is supported by the state, religion and society at large, and forms the basis for patriarchy."

Perhaps nowhere else among African communities is the prominence of men over women more stark than when a child is born in a family. The birth of a boy in a family, especially if it is a first born, is welcomed with much expectancy and joy than that of a girl. The entire upbringing of a traditional Xhosa girl is structured with a view of ultimately positioning her as an *inkosikazi yasemathileni* (i.e. a mother and a wife). Parents who are graced with a sole female child are not particularly a happy family, especially the man. This is also true if the first born turns out to be a girl. Tradition has it that the first born stands to inherit his father's property. The prospects of a girl assuming that position presents an unnerving thought to the parents of the girl, particularly the father. The reason is that according to the old traditional adage, *intombazana izalwa kabini*, meaning, a girl is born twice. This is a projection to the girl's future family which she acquires upon marriage. Steeped in this tradition and custom the girl's whole life is nurtured with a view of her reaching that eventual destination, her new curatorship, the husband.

The last comments I wish to make under this sub-section relate to the definition of the terms 'boy' and 'girl'. The definition of these terms is important in order to understand ethics of abortion within traditional Xhosa culture. The definition of these terms is appropriate here as it further demonstrates gender construction among the Xhosa people. Within Xhosa traditional culture if your status is still that of a boy your parents do not feel obliged to consult with you in any decision making in the family. Decisions are taken on your behalf and not with you even if you are directly affected by them. Equally, a young girl who has not yet become a woman is treated in a similar manner as the boy. Here it must be considered that the terms 'boy' and 'girl' are used in a different context than they would be used within Euro-Western societies.

Among the Xhosa traditional communities to be called a 'boy' is by definition to be uninitiated, without a status and therefore excluded from family and communal responsibilities. Indeed, as a boy one shares equality of status with a dog, the saying being, *Inkwenkwe yi-inja*. Elliott (cited in Mwamwenda 1995:402) notes that among the Xhosa people a boy's "unacceptable behaviour is attributed to immaturity and ignorance". Consequently, "irresponsibility on his part is condoned, even expected". However, during late adolescence, boys go through the ritual of circumcision³⁷, which serves to mark their new status as 'men', and thus adults who can now be entrusted with responsibility. Among the Xhosa traditional communities, the word 'girl' distinguishes one from a 'woman'." Etymologically, a 'woman' refers to a female who is marriageable. When a girl reaches puberty and experiences menarche, she is taken into seclusion. During this period she is referred to as '*intonjane*'³⁸ which refers to the fact that she is now a 'woman' and is, therefore regarded as marriageable.

4.3.3 Regulation of sexual relationships and women's fertility

How the traditional African societies regulated fertility and reproduction between couples offers further indication of the African's estimate and practice of human rights. This is because one of the most reliable tests of the absence or presence of human rights in any society is the way in which both women and children are treated in the various spheres of life, such as sexuality, socially, economically and so forth. My observations will be on the African people in general and Xhosa ethnic group in particular.

According to African tradition the prime objective of a newly married woman is to conceive and bear children. The greater the number of the children born the more

37. The rite of circumcision among the Xhosa is still very strong. A cessation of it looks almost impossible and would be seen as a violation of the established injunctions of the ancestors. As recent as 1994, the Daily Dispatch (1 Jan.) Editorial noted: Under no circumstances can a male from the Xhosa-speaking community not undergo circumcision. He might hide away or even disguise himself, but if he is ever detected, it would be impossible for him to lead a normal life among other Xhosa. (Cited in Mwamwenda 1995).

38. This rite is not consistently followed today. However, if in later life one encounters mishap, suspicion is that it is because she did not have *intonjane*. It can be done even after marriage so as to 'expel' the misfortune.

secure the position of the woman in her marriage becomes. Fertility of the woman is demanded so that she can expand the clan and perpetuate the life of the community, her husband's lineage and ancestry. Mbiti notes that,

in African communities, marriage and procreation are a unity, ... without procreation marriage is incomplete. The chain of humanity is blocked by a childless marriage (cited in Pato 1994:58).

Traditional African societies accord greater respect and credit higher status to a married person than an unmarried one. This would be true irrespective of a person's gender. Firstly, marriage is seen as a uniting link in the rhythm of life. "All generations are bound together in the act of marriage-past, present and future generations" (Pato, 1994:58). Secondly, marriage is seen as a duty within this rhythm of life in which everyone must participate. "Otherwise, he who does not participate in it is a curse to the community. He is a rebel and a lawbreaker. He is not only abnormal but 'underhuman'" (Pato, 1994:58). Furthermore, Mbiti states,

Through participation in marriage one shares one's life with the community, and takes full responsibility for the great gift of life. Thus failure to get married is regarded as refusal to take full responsibility for one's life and the life of others; it is a rejection of one's duty and responsibility. Thus an unmarried person is seen as unstable, disturbed, not fully mature, and not fully human (cited in Pato 1994:58).

The notions of one being a 'curse' to a community or being judged as 'unstable, disturbed, not fully mature, and not fully human' posits a gloomy picture for a woman who, not by any fault of her own, is unable to find marriage. Indeed, expressions like: '*u-dudelwe ngu-Jambase*', (i.e. 'unmarriageable' woman) were often used to describe such a woman. However, the reality is that it is within the context of marriage that traditional African societies attached spiritual value to procreation and saw it as a divine-ancestral and not just a natural obligation.

If a woman (i.e. it has always been attributed to the female partner) is barren her future position in this family becomes a precarious one. The family interprets this as *ilishwa* (ill omen) and it signifies *ingqumbo yeminyanya* (wrath of the ancestors). When a woman becomes pregnant, probably for the first time in her marriage life

she is treated with exceptional tenderness and extreme care. Writes Mwamwenda (1995:389), "An expectant mother is referred to as a 'patient' and accorded the treatment and care of a patient".

Among the Xhosa people it is common that when a child is born the local people celebrate the event together with the family. It is customary that gifts are brought to the child by all those who come to see the little one for the first time. The naming of a child is a big occasion among the Xhosa people. Usually, the name given is associated with some important event occurring during the child's birth. If a child is a boy and especially a first born, he is named by his father and is given one of ancestor names,

The son is considered to be of special significance, because he is an heir to his father's name and wealth and will be responsible for the well-being of his mother when his father dies, ... He will conduct the funeral rites for his father, thus enabling the latter's spirit to be accepted into another world (Mwamwenda 1995:383).

So far our discussion of fertility and reproduction has been confined within wedlock relationships. What has been the attitude of African traditional cultures to sexual intimacy before or outside of marriage? This question must be addressed in order for our discussion on abortion and human rights to be inclusive and comprehensive. There seems to be difference of opinions whether African communities in general condoned or condemned sex before marriage. Philips (1963:3) has categorically stated that,

The limits placed on sexual activity by the rules of most African societies are less strict than those which most Europeans profess to accept. In many tribes sexual activities between unmarried persons is permitted and even expected, provided that it is confined within prescribed limits of time and place, and does not lead to conception.

The same line of argument is sustained by Meyer (1970:159-160),

Sexual gratification is valued positively at all ages. Adolescence is seen as a time when both sex and fighting should be practised vigorously, ... the youth, without any adult supervision, carry on sexual and fighting activities, and they receive from their peers and near-seniors both encouragement and restraint.

Chapman (1977:128) disagrees, instead attributing any truthfulness of those perceptions to the assimilation of Western type of culture by the Africans. According to him it was the introduction of the Western type of education, employment in cities and urbanization which served as factors that, "shattered practically all chances for many African communities to give the traditional type of education previously given to their offspring." Hlengwa (1994) concurs with the sentiments shared by Chapman that African communities initially observed strict sexual rules for their young.

Although Hlengwa is writing from a Zulu perspective, his description of how sexual activities are conducted among the traditional Zulu coincides very much with the traditional Xhosa practice. Firstly, when *lobola* was passed from the bridegroom's family to that of the bride, an extra cow was charged if the girl was still a virgin. Conversely, it would be subtracted from the *ikhazi* if the girl was found not to be a virgin. A common Zulu saying among traditional Zulu girls underscored the cultural expectations, *ungazeneki izinkomo zika-baba*, meaning 'do not expose our father's cattle'. In this context 'cattle' is an euphemism for the girl's vagina. Strictly speaking, not all girls are virgins but one would expect all virgins to be girls (boys were exempted from the requirement and from consequent inspections). The traditional Xhosa as a sign of high honour and recognition of moral rectitude to the girl refer to her as, *intombi nto*, while the Zulu expression is *intombi saka/egcwele*. Both terms are an idiophone for 'full', the hymen being said to fill the vagina.

Secondly, both traditions permitted sexual activity under the same provision of *ukusoma*. Ukusoma is the traditionally accepted mode of releasing sexual urges without defloration and premarital impregnation. Krige (1968:103) describes the word as follows:

Ukusoma calls for considerable self-control on the part of the girl. She has to lie on her left side, legs pressed and pressed together so tightly that the penis gets no further than the clitoris. The semen must be caught in the left hand and then carefully wiped over the thigh and leg until dry.

The night the young man spent with his lover was not a 'peaceful' one in the sense that all the young man's sexual advances were aggressively thwarted. Most of the night was spent in ferocious bouts of wrestling. The traditional moral value system demanded that the girl display such resistance. Any girl who yielded too soon without strong resistance would be judged morally weak. But even when she finally yields,

She presses her thighs together, stiffens her muscles and pulls herself together into a penal position, to prevent her lover from effecting sexual intercourse (Hlengwa 1994:220).

Elderly women interviewed on this subject agree with Hlengwa, Chapman and Krige's representation of facts. These women recollected their own memories how as young women they were subjected to the *ukuhlolwa* custom. This is an inspection of the girl's vagina to ascertain whether they have been penetrated and deflowered during the practice of *ukusoma*. *Ukuhlolwa* was conducted periodically among girls either by their reference group leaders, or an elderly woman designated for this in the local community.

4.4 Xhosa ethics of abortion

One of the most common arguments advanced by those who are champions of a woman's right to seek abortion is that the woman has the right to decide what happens to her body. I have already expressed my objections to this line of argument when I discussed African personhood. There I pointed out that such line of argumentation fosters an object-subject dichotomy of one's personhood which limits rather than advance one's human potential within the concept of 'the self'. But I must address this reasoning again here within the context of African ethics of abortion.

On a philosophical level this argument arises out of an understanding of *selfhood* or *subjectivity* as constituted distinctly from *one's body*. From this perspective of the self the body appears to be an object and not a subject to the individual self. To be fair, those who take this position fall on the far left of the pro-choice category and are often referred to as pro-abortionist. The argument as often

advanced within first world countries makes abortion appear like it is purely a clinical operation detached from one's emotional, psychological and spiritual dimensions of being.

I realise that this reasoning is born out of the rationalising culture of the West which exalts faculties of reason and logic used and applied in an abstract fashion. However, this kind of reasoning astounds the African culture because it is antithetic to and eludes the African concept of self. This creates problems rather than resolving them for the African mind. African people are known for their unabashed manner in which they express emotion. For them emotion and intuition form the essence of self and constitute a major part in the evaluation of moral-ethical decision making.

Writers such as Senghor and Mphahlele are cited in the work by Mwamwenda (1995:421) as validating this same point. For example, Mwamwenda notes that these writers have emphasized the fact that emotion is a fundamental aspect of African personality, just as reason used to be fundamental among the ancient Greeks. "In general an African finds no reason to inhibit his total surrender to the emotional intensity of the moment". Furthermore, Mwamwenda (1995:422) quotes approvingly Mazrui, who has written:

The great genius of Africa lay not in European concept of rationality, but in indigenous capacities for intuition; not in the principles of scientific method and objectivity, but in the wisdom of custom and instinct; not in cold analytical reason but in warm responsive emotion.

Therefore, in any meaningful discussion of an African ethics of abortion in general, this point has to be kept in the forefront. While the French philosopher Descartes, as noted earlier said, 'I think, therefore I am'; correspondingly, from an African perspective, Senghor has asserted 'I feel, therefore I am'. This is true in addition to Mbiti's other dictum about the African people, namely, 'I belong, therefore I am.' I must hasten to point out that this by no means suggests that Africans are not rational. Such an assertion would not only be untrue but condescending of the African humanity and personhood. What is being argued against here is that kind

of 'dry' rationality which finds no space for emotion and intuition as legitimate ways of knowing and analysing situations even when these relate directly to human relationships.

Based on the above discussion we can then conclude that Xhosa ethics of abortion must be informed by this comprehensive view of self. This view is informed by a concept of self that is not only rational but emotional and intuitive. If a decision on abortion had to be made it would not be on the basis of a woman's right, a legal entitlement in the sense that the law allows the woman to take such an action. Nor would it be on the basis that what is being aborted is probably a potential person but not yet. Both these forms of rationalization are not fundamental in my view.

Xhosa thinking distinguishes between the legality of an action and its goodness. Because something is legal it does not make it necessarily right. So that settling of disputes is not exclusively based on a written code of law but at the consideration of each situation with its unique circumstances. For example, according to the Xhosa traditional court system it is not a foregone conclusion that the culprit is always charged personally for his/her deed. Based on the evaluation of relevant factors for each case, parents of the offender, for example, might be directly charged on behalf of their child. Take the example where a boy grazing cattle on the fields allows them to drift away and as a result they graze on someone's mealies. If, after the deliberations on the case, a charge is meted out, it is parents that are expected to pay. While legally it may be more appropriate to punish the offender the notion of justice as conceived here must always be accompanied by a consideration of other factors, such as compensation or restitution. Based on the evaluation of what is considered relevant factors in a given case, it would be taken that what is 'good' all things considered has been done.

Also, what is good and right is not always rationally defensible. The reason is that in terms of the African view life in essence is mysterious and all forms and stages of life impact and interact one upon the other. While human life may be distinctly unique from other forms of life it does not in anyway make it superior in anyway. Sometimes the life of an animal, or a river is more important than that of a single

human being. This is because animals are sometimes believed to be 'entered' by the spirits of the living dead. This is often the case, for example, where the man had a cherished ox which he left behind when he died.

Rivers too are often assumed to be inhabited by the ancestors. Some people who become *amagqirha* (traditional healers) receive their training in the water under the supervision of their ancestors. All these forms of life support each other in their coexistence. In the process sometimes one form of life is sacrificed to help the other in their mutual existence. In this regard, Mandew's discussion of '*indalo*', that is, natural world, within African cosmology is decisive. Mandew (1997:53) points out that,

The human being is located within *indalo* and the life of the human being in community can neither be distinguished nor be separated from the life of *indalo*. Not only does human being generate life but the human being is generated by *indalo*.

Another ethical consideration on abortion is informed by a view of life which is communal rather than individual. This second factor has been elaborated in some detail in the previous section. One other point, though, must be added which is: The collective and communal nature of decision making within the African culture although consultative is both sectional and secretive. Elaboration of these points will be done in the following chapter, suffice to say that by 'sectional' is meant that while the individual avoids arriving at a decision alone, one consults only with those regarded as 'relevant in the equation', or what might be called 'one's significant others'.

I will use four distinctive categories to explain and demonstrate what relevancy in the equation is intended to refer to. The first category will discuss the question of abortion as it refers to minors. The second category will examine what I refer to as 'gender assignments'. The third division will discuss the handling of abortion on the grounds of infidelity. Finally, a discussion will be pursued on the five other factors generally considered as common reasons for abortion. These are cases of rape, incest, woman's health consideration, severe conceptus abnormalities and economic reasons. A detailed discussion of what ethics of abortion might mean and

how they would be handled under each category will be discussed in the next chapter. Such a presentation and a discussion will be informed by the fieldwork undertaken for the purposes of data collection. What this sub-section has achieved is to offer a theoretical framework upon which actual cases on abortion can draw. There is, therefore a direct linkage between this conceptual discussion of abortion and abortion as it is actually practised among African communities. Whether that relationship is a mutual, inclusive or an antithetical, exclusive one is yet to be determined in the data analysis itself.

4.5 The human as both social and as individual person

Rose (1996) presents an intriguing legal debate between Devlin and Hart (1958) about whether or not the state should legalise homosexuality and prostitution. She then summarises the contrasting positions between these two legal minds as essentially evolving on what it means being human with both communal and individual responsibilities. The debate between Devlin and Hart unfolds five stark polarities humans confront as social and as individual persons.

The five polarities highlighted by the Devlin and Hart debate best illustrate the foregoing discussion between Western and African estimate of what it means being human within the deliberation on human rights. I wish to present these five competing principles before I summarise this section and in anticipation of the next two final chapters of this study. The discussion of these points is unrelated to the discussion itself between Devlin and Hart. I am merely using their conceptualization of the problem of legislating morality in so far as that discussion informs and further illuminates my present study. The polarities are as follows:

1. Continuity - Change
2. Positive - Critical Morality
3. Social - Individual
4. Homogeneity - Pluralism
5. Public - Private

A stress on *ethics of continuity* places emphasis on communal, public morality. Such ethics are suspicious of human nature and insist on it to be controlled by social imposition of morality. Emphasis is placed on continuity of values, the role of tradition and the need to conserve what it sees as 'weightier matters of cultural continuity'. There are striking similarities with this way of thinking in relation to African morality as promulgated by traditionalists.

Those who reject abortion fall back on what they refer to as the 'un-African' nature of abortion. If one investigates further what is meant by 'un-African', one is simply dismissed by being told: "Our culture does not practice abortion". The problem though is that there are many inventions under the pretext and disguise of the name culture and tradition, so that culture is made to pronounce even on issues it is silent about. Often such pronouncements favour men's needs and social position as against their female counter-parts.

Contrary to the position outlined above is the one that argues for *ethics of change* based on human freedom to experiment. This position is more trusting of human potential and argues for it to be given a space to initiate and experiment on new freedoms based on new opportunities. It encourages a critical evaluation of tradition because of the pivotal place it gives to reason and rationality. This perspective is characteristic of and reflects contemporary Western culture of human rights. Its view on abortion would be to take seriously the socio-economic changes, medical and technological advances, and other developments which have revolutionized traditional roles assigned to women.

Secondly, traditionalists shift towards an *ethics of positivism*. Positive morality tends to be supportive of the *status quo*. It often relies on feelings and emotional attachment in determining what is good and in judging what is right in a given situation. Ethics of positivism cling on the belief that all 'reasonable' people must equally condemn what is perceived to be wrong or bad. Such assumptions endorse prejudice and legitimize even irrationality. One sees this, for example, in the stigmatisation of health workers who give abortion services or clients themselves

who seek abortion. The former might be called 'abortionists' (*ababulali*) while the latter might be called *amagqwirha*.

On the other hand *critical morality* or *ethics of suspicion* adopts what we would call hermeneutics of suspicion in relation to the status quo. Emphasis is here placed on reason as criterion in reaching informed judgement.

Yet, simultaneously we recognize the role that is played by the intuition and other non-rational factors: the perception of moral truth is a complex process which involves different aspects of human awareness (Rose 1996:10).

This means that pure rationalisation alone in abortion discussion fails to accommodate other equally critical factors.

Thirdly, the deliberation on abortion may focus on the common good of *ethics of social cohesion*. Pioneers of this position want to stress what is deemed to be the common good of shared morality. The problem is that one's localised preferences become projected to the entire society as definitive. Correspondingly, others wish to defend the good of *ethics of individual uniqueness*. Subsequently, they insist on the liberty of the individual woman to arrive at uncoerced, independent decision. Here one sees the fundamental contrasts between the two extreme positions. One particular expression of this fundamental contrast is to be found in that of homogeneity and pluralism to which we shall now turn as our last point of consideration.

Traditionalist want to overstate *ethics of homogeneity* of society and unintentionally lapse into universalising local experiences. There lurks a danger as well of wanting to legislate same values on those who might not necessarily share the same convictions be they religious, cultural or otherwise. Often this kind of reasoning is reactionary to the perceived (genuine or not) threat to the way things are supposed to have been in the past. Such people cling stubbornly to the way things have always been as *they* remember them.

Western societies, on the other hand generally advocate *ethics of pluralism*, a recognition of the fact of diversity of individual choices: The goal is to, "Free individuals from the strait-jacket of social conformity, (and) let the experiment begin!" (Rose, 1996:11). Rose is here remarking on the fact that Devlin's conservative paper designed to introduce controlling legislation on homosexuality and prostitution was delivered in 1958 in the United States of America. This was just two years before the explosive experimentation on freedom began from the nineteen sixties onwards.

In our South African context it is interesting to note that this study is undertaken at a time when we have just begun experiencing and experimenting on the freedoms hitherto unknown especially to the African majority. Concession has to be made that 'the centre can no longer hold' in terms of rallying for a return to undiluted African traditional cultural patterns. In terms of our own context, the question becomes: When exactly does homogeneity descend into majoritarian totalitarianism and pluralism evaporate into anarchy?

Lastly we now consider respect of the *ethics of public option* versus *ethics of legitimate privacy* of the individual. Where exactly does one end and the other begin? How do we 'manage' these polarities in continuum coexistence? How do we combine these "furious opposites?" (Rose 1996:12) in as far as the debate evolves around the question of the termination of pregnancy? In Chapter Six I will seek to address the concerns raised here. But before that I discuss the fieldwork which together with this discussion will be informative of the way forward. What this subsection has done is to caution us against a blind, uncritical embracing of African ethics of abortion as outlined here. Guarded optimism and not wholesale adoption of African ethics of abortion should mark our attitude. The reality of the matter is that African sexuality has not been closed to the past but has progressed to a point where it has assimilated Western tendencies and values which in turn have created a disequilibrium portrayed in terms of the polarities discussed above. The next subsection goes into some detail to demonstrate this.

4.6 Confronting contemporary sexuality

Petchesky (1990:141), writing on the recent trends in abortion practices within the American Society, comments on what she calls "a fundamental alteration of consciousness". She makes the following observation:

Access to birth control and legal abortion have contributed to a changing consciousness among women that they might legitimately defer marriage and childbearing to other goals and needs, without deferring sex.

These comments seem to accurately describe the sexual evolution in our own country. Within the African communities traditional and cultural taboos and restriction on sexuality are no longer observed by the younger generation. Social penalties of sexual activity which used to be imposed have largely diminished leading many young people, both boys and girls, engaging in sexual intercourse with little, if any, inhibitions. We are a sexually active society, whose traditional and cultural norms and values no longer hold.

This is a fundamental alteration of consciousness among the African communities if one realises that only a generation ago, social norms prescribed and dictated that an out-of-wedlock conception inexorably led to marriage and the bearing of a 'legitimate' child. These shifts in social roots are in turn reshaping the life situations of many teenage and young adult women. Among the factors which are 'reshaping' our society are an overall shift toward late marriage with a resultant increase in premarital sexual intercourse, and the increased primary involvement of young women of reproductive age in school or work, rather than childbearing in marriage.

The postponement of marriage and childbearing has lengthened the years of young women's premarital sexual life by advancing the endpoint of this stage at menarche, or onset of menstruation, has allowed in the course of the last few generations due to improvements in health and nutrition (Petchesky 1990:144).

Young women, it would seem, now believe that they can consider abortion or single motherhood based on the demands of their own needs rather than the dictates of family pressure or traditional social stigmatization. In doing that they are

seeking to reconcile their reproductive decision making with a self-determined life. This is despite the fact that their achievement of such a life is constantly undermined by the social relations of male domination, class stratification and racial economic inequalities.

I am not suggesting that regular pregnancies and frequent abortions are healthy, desirable, or that there are no reasons to be concerned. On the contrary, there appears to be problems that impede a successful (and preferable) reliance on regular birth control use, short of complete abstinence. These impediments have to do with general ignorance or lack of information, one's consciousness in using contraceptive methods and the socio-economic background of each individual women. These differences render the commonality of women's experiences to spread and diversify remarkable. A dialogue is required between the 'left' liberal democracy and the 'right' traditional system of governance which will seek a constructive dialect in dealing with the human polarities discussed previously.

The two systems must dialogue with each other for any hope of a successful settlement that will restore African women's dignity, sense of self-reliance and comprehensive well-being. It is clear that the traditional ways which emphasized ethics of continuity, positivism, social cohesion, homogeneity and pluralism no longer hold. On the other hand, African communities, especially the rural/peri-urban women, because of their socio-economic position, the values and ideals of liberal democracy are, in many ways, still a far cry for them. For these women, ethics of change, critical morality, individuality, pluralism and privacy can only be realized in a piecemeal fashion. On the whole they remain more of an inspiration than an experienced reality. The liberation of their reproductive health through the use of contraceptives and abortion is one of the first steps towards their eventual claim and attainment of human rights.

The single status of most abortion clients is a sign of the legitimacy of abortion and its association with normal reproductive control. The increasing visibility of women's sexuality outside the patriarchal family system is a challenge to African

traditional societies that a new era has dawned whose values cannot be dismissed, nor can a retreat to the 'old ways' of living be a viable solution.

4.7 Consolidation

This chapter discussed the concepts of what it means being human as evaluated within traditional African culture. This was done in juxtaposition to the Western conceptualization of what it means being human. African personhood was demonstrated to be fully situated within what was referred to as a person-in-community. The traditional African notions of human rights were explored with a view towards allocating women's reproductive and fertility rights.

The investigation of human rights within traditional (and contemporary) African societies revealed certain contradictions in so far as human rights are accorded to women. This brings into question the notion of a person reaching one's full potential by participating in the whole cultural milieu of the life of the people. In other words, traditional African communities cannot be said to be communities of equals and this conclusion is reached on the basis of gender construction which was interrogated in one of the sub-sections. Traditional African societies due to their social stratification relegates women to the position of perpetual minor. "Within the family, we (i.e. women) are often controlled by fathers, husbands or tribal chiefs" (Cousins *et al.*, 1996:35).

This experience of being a woman evokes existential experiences that life as lived is often not life desired to be lived. A woman is constantly reminded of the abiding presence of negative and destructive *seriti* conceived as *isimnyama*. In so far as African conceptualization of human rights is concerned, it is not a woman's lived experience. The erosion of such traditional rights is unlikely to be mourned by women. Indeed, quite the opposite. In contemporary society the conservative elements of African culture cannot hope to survive. Any perceived tenacious hold of them, especially as this is by men can only discredit such cultural values and norms. However, the choice is not between an abdication of one's cultural identity nor a stubborn hold to it. The deep-seated religio-cultural elements in most people's lives renders those options suicidal. It is in this regard that a serious dialogue

between African cultural values and culture of human rights must be promoted. How this can be done will become a subject of the discussion in Chapter Six following fieldwork findings of the ethics of abortion as practised on the ground.

Lastly, this chapter introduced us to some of the formative elements of ethics of abortion as perceived within traditional normative values of African communities. These could be summarised as follows;

- (a) Marriage is an ideal environment within which one participates in the rhythm of life by giving birth to children. In this way procreation receives divine-ancestral validation.
- (b) That a comprehensive view of self is that which encompasses one's rationality, emotion and intuition. Thirdly, that a distinction has to be made between that which gives legal jurisprudence and that which is regarded to be a 'good' thing to do. The point being made here is that what is legal may be the right thing to do, while it may not be a good thing to do.
- (c) That rational defensibility of the action does not necessarily ensure its goodness and that it is the right thing to do. Fourthly, that traditional African culture stresses notions of community as opposed to individualised self, hence validation of one's action is to be sought through one's significant others.
- (d) That one's significant others are appointed selectively and that they function confidentially under 'gender assignments'. It is these constitutive elements of Africa's contribution to the ethics of the abortion debated that we shall now further explore utilising the actual life experiences of women themselves as gathered during the fieldwork process. The next chapter examines this phenomenon.

CHAPTER FIVE

FIELDWORK AND DATA ASSESSMENT

5.1 Introduction

This chapter discusses the fieldwork undertaken among Phola Park residences and the statistical details taken in the Umtata hospital as part of the broader investigation to the abortion topic. Most of my interviews were conducted among the Phola Park residences. A brief profile of Phola Park will be given as a background to the understanding of the community members who became principal interlocutors of this study.

In many ways this was one of the most challenging and equally rewarding experiences of the research. It was challenging because it meant going to people and asking them questions or initiating dialogue on a delicate and emotive subject, especially within the African community.

As has been shown in the previous chapter, the African community is essentially reserved in talking public and being too vocal or explicit on issues of sexuality. This applies both among couples and especially between age groups where generation gap is highly observed with respect, resignation, if not pure fear. But the exercise was also rewarding in that it gave me an opportunity to test, clarify, alter and rethink my own stand and assumptions on the subject. In this regard, my own position has been shaped in no small way by these personal encounters and the process as a whole.

My entry into Phola Park had to be strategically planned as I knew nobody at the time prior to my fieldwork visits. The first thing I did when I arrived was to look for a priest, a church elder or a community leader. I wanted someone I could use as community entry link. I was referred to the home of elder Mohamed³⁹ of the

39. All interviewees' true identities have been concealed to protect their confidentiality in compliance with their wishes.

Apostolic Faith Mission by a woman I came across outside her own house doing laundry.

As it turned out later on this family was to become my 'motel' as I frequented the Phola Park location now and again to conduct more interviews with the people there. Mrs Magasa proved to be a warm, open and friendly person including her children. The interview I conducted with her appears on Appendix IIIA where her profile is given, as well.

On the whole I must say that the openness and the readiness of the people to discuss the topic on abortion went far beyond my expectations. But it did mean that I had to be tactful and even persuasive at times. For example, I noticed that in all cases where I conducted interviews, children would not take part in the discussion. Indeed, sometimes even the woman (i.e. wife) had to be invited by her husband before she could begin to participate in the discussion. An example of this is an interview I had with Mr Mohamed, an elder of the Apostolic Faith Mission (see Appendix IIIB) That interview is critical because it reflects family power relations and what this may mean for the woman wanting to procure abortion within such a family system. The power relations portrayed in that family setting are not an isolated incident but are like a miniature of a larger reality true of many African families, especially the rural/peri-urban homes.

5.2 Hypothesis being tested

The primary purpose of data gathering is to test whether the hypothesis which informed the research in the first instance is confirmed or denied. However, where one is dealing with people's attitudes and value judgement and not with pure statistical information the task becomes even more daunting. In the introduction of this study the main hypothesis of this research was stated as: That (African) women will access the service on abortion as their individual democratic right under the new abortion Act (Act 92 of 1996). It was postulated then that this would not necessarily give women better quality of life for which the new Act intended. The reason suggested was that African traditional value system might mitigate against such intended improved quality of life for women. It was argued that the

democratic dispensation in our country with its new culture of human rights must be underpinned by a sensitivity to African cultural value system.

In order to operationalize the hypothesis the task of my research sought to investigate the following: That one's decision to seek abortion is a highly individual decision which neither the church nor culture can succeed imposing any control measures against. This essentially means that moral-ethical considerations engendered by one's religio-cultural orientation are in fact inconsequential for individual decision making and implementation. The secondary hypothesis is that while the above may be true, it does not necessarily exonerate the individual from her religio-cultural conditioning and thus creating a dissonance between the person and her significant others. Here I include one's family, church and community relations.

The following statistical data demonstrates the first part of the point being argued here. For example, according to the statistics released by the national health ministry between February 1 and July 31 of 1997, a total of 12 729 elective abortions were performed in South Africa (Natal Witness, 15 December 1997). While these statistics were not racially bracketed we may not be wrong to assume that the exceeding number of them represented African women. This assumption is backed by the fact that Chris Hani Baragwanath Hospital alone, which serves mainly African people, to date has performed the highest number of abortions. Of the total number cited above, 7 300 abortions were performed in Gauteng Province (SABC Radio News, 14 August 1997). Chris Hani Baragwanath Hospital accounted for 4 000 of that 7 300. Of this figure 800 (i.e. 20%) is said to be girls of not more than 18 years old. The Umtata General Hospital which again services almost exclusively African community has to date performed over 1 000 abortions. Between April and July this hospital performed 934 abortions. Of this figure, 120 (i.e. 15%) were performed on girls from as young as 11 to 21 years of age, while 83 (i.e. 10%) were performed on married women without seeking consent of their husbands.

If the above figures are anything to go by they seem to validate the main hypothesis of this study. It has to be conceded both by the church and the traditionalist that their moral-ethical demands and expectations are far from being realised. Abortion has become a reality we can neither deny nor wish away.

5.3 Context of study

Phola Park is an informal settlement which is about 10 kilometres outside Umtata. The population of this location is about two thousand. There are five dominant denominations in this settlement, namely; Mount Horeb, Old Apostolic Church, Twelve Apostolic Church, Apostolic Faith Mission, and Zionist Christian Church. The so-called mainline churches are conspicuous by their absence. Note must be taken that often it is the African independent churches which often provide spiritual edification and leadership in these conditions. One suspects that the mainline churches are gradually but surely becoming elitist churches. In many ways the African independent churches' leadership is most attuned to the pain and suffering of these communities. This factor is a serious indictment to these churches which often are more visible when it comes to making public statements concerning the state of the nation on moral-ethical issues.

The Phola Park residents lead a rather difficult life. People here do not have electricity and have to pay R5 for 25 litres of water. There are two water taps that service the entire location. There is no school, no clinic and no police station. People get these services from town or by getting to other neighbouring townships which were on the other side of town. Taxi fares range between R3.50 to R5 a single trip. Not surprisingly, most families are headed by single mothers who work in restaurants, cafes, hotels, furniture stores or in the family homes as care-takers or child minders. Cohabitation also seemed a common feature with both couples or only the man acting as bread winner. There is a heterogenous community of professionals, such as police, teachers and nurses who also reside at Phola Park.

Phola Park is close to Wellington Prison, which perhaps explains why many police officers are found in this settlement. The presence of the police at Phola Park does

not curtail nor serve as a deterrent to criminality and general lawlessness. My first day in Phola Park to conduct interviews coincided that morning with a rape incident of a seven year old girl. The guardian of the child (people narrating the incident to me were not sure whether the woman was her biological mother or a relative) had to send the child away to her grandmother in the country-side because she feared that the alleged rapist who had not yet been arrested although he had been identified would abuse the child again.

5.4 Nature and scope of information gathering process

The theoretical framework which informed the fieldwork undertaken here was that of qualitative methodology. This method was discussed in some detail in Chapter One. A point was made there about the triangulation strategy which utilises multiple strategies in data gathering process aimed at testing the hypothesis upon which this study is conceived. It is in this respect that quantitative methodology is also employed in this chapter in the investigation of the thesis topic. I want to give a critical discussion of important elements of quantitative methodology used in the design of data gathering process in this chapter.

I begin by a brief critique of the technical and professional mannerism associated with the process of data gathering during fieldwork within quantitative methodology. Such a discussion is critical to justify certain deviations from standard rules made here which normally characterise quantitative methodology.

5.4.1 Format of interview process

Among the illiterate and semi-literate population strictly formal interviews in its narrowly defined sense does not even begin to describe what goes on during these information gathering sessions. Structured interview means to gather information through interrogation using strictly prepared questions. It soon became clear to me that gathering data strictly through this method would have yielded less information than required in order to make meaningful assessment of the hypothesis being tested. This method comes across as being too impersonal, detached and impolite, if not outright arrogant.

Among the African people when you enter one's home you can no longer dictate the direction of the conversation. While you may introduce the nature of your visit, you cannot then prescribe by using already strictly prepared questions how the process unfolds. It is out of this factor that during fieldwork I used prepared questions as facilitation to and not as determinants of the interview process. Interviewees were not made to feel compelled to answer questions as imposed on them in a straight and direct way. Mostly, I gathered information in the form of a dialogue and conversation. Such an approach is referred to as "non-scheduled structured interview" (Bless *et al* 1995:107).

In so far as the interviews were 'non-scheduled' what this meant was that respondents were free to expand on the topic as they see fit, focusing on a particular aspect, relating their own experiences and so on. However, because I needed more specific and detailed information which could facilitate in comparing reactions of different participants, the interviews were to that extent 'structured'. This means that interviews closely followed areas I wanted to explore such as, ethics of abortion as it relates to traditional Xhosa culture and practices, question of minors and abortion, factors that lead to abortion and so forth. In this regard both questionnaires appearing under Appendices IIIA and IIIB indicate the kind of issues I wanted to address.

Questionnaires were prepared in English and explained in Xhosa during the process of filling them in. Sometimes I assisted in the actual filling in of the questionnaire. I took into cognisance of the fact that even if questionnaires were prepared only in Xhosa I still had to read them myself on behalf of my illiterate interviewees. The problem though is that what one reads for herself may not be understood in the same way as that which is read on one's behalf. Reading *on behalf of* runs the risk of the interviewee mentally reading what is verbally read on one's behalf. This mental reading immediately raises questions of interpretation of what the interviewee understands to be communicated and not just what she/he hears.

This is not to suggest that the one who reads for herself/himself is exempted from interpretation. However, the reader does the interpretation on the basis of what is

read on paper. A very different thing from interpreting what one hears verbally. Factors like these may compromise the external validity and reliability of conclusions one makes on the basis of the data collected. One needs to take into consideration factors like these in making evaluation of the data.

5.4.2 Questionnaire construction

Preparing a questionnaire for the fieldwork was one of the difficult and demanding phases in the project. I was sensitive that I might impose types of questions not regarded as critical by women themselves targeted for the study. In this regard the preparation of questions for the fieldwork underwent certain stages of 'informal' pilot study. In my informal and initial discussions of the topic with the rural/peri-urban women, acquaintances, friends, colleagues, students at the University of Transkei and family members I reflected on and registered what seemed to be constant areas of interest, controversy, agreement, biases, ambiguities and ambivalences.

Areas of discussion which often came up in the abortion debate included the following: People's religious convictions, rape instances, incest cases, role and responsibility of parents to their children, peer pressure, question of minors, irresponsible behaviour, infidelity in relationships, socio-economic reasons, severe abnormalities of the conceptus, popular culture, influence of secularisation in society, family planning, use of contraceptives, cultural predilection and so forth. What soon became clear to me was that the debate on abortion instantly raises a host of issues difficult to summarise in one word or under one subject. One might easily yield to the temptation of being distracted from the main thesis one is attempting to deliberate upon.

The next phase in the construction of the questionnaire was to seek to categorize the many areas of concern enumerated above. This stage helped me to eliminate those categories which fell outside my immediate area of concern. At the same time it allowed me the opportunity to construct questions which incorporated critical elements for the population from which the sample of the study was drawn.

I then formulated questions around these areas. Appendix I shows the type of questions asked, how they are asked and the order in which they are asked.

5.4.3 Sample of the population

In quantitative approach the grasp of the meaning, as well as the usage of technical terms such as 'sample' and 'population' is critical. Population as used within research studies is a reference to "all the individuals about whom a research project is meant to generalize" (Rosnow *et al* 1996:17). In this study this means peri-urban women. However, because it is not possible to study all the subjects of your study one has to choose a representation of the population, namely, a sample. The sample is a "subset of a population" (Bless *et al* 1995:88).

For the purposes of this study my population is composed of women within the Phola Park residence. However, within that entire constituency I selected a sample that would be representative of the population. How one chooses a representative sample mainly depends on factors such as, "the nature, scope and purpose of the study being conducted" (Bless *et al* 1995:87). For my purposes the nature of my study as conceived in the hypothesis goes further than Phola Park women residents. The interlocutors of this study embrace African women within a broader discussion and focus on Xhosa traditional and cultural practices. It is for this reason that the sample of the population is selected out of a consideration of a cluster of factors, technically referred to as 'stratified sampling' such as the following: age group, marital status, level of education, one's profession, religious convictions, size of family and so forth.

However, because this study involves issues of human sexuality, relationships, (cultural) values, issues of power relations, gender and human rights, it was important that views of women be engaged with those of their male counter-parts. It is for this reason that both female and males participated in the interviews. But the main subjects of the study remained women. A total number of 58 women were used in the two processes of data gathering, namely, personal interviews and the filling in of the questionnaire. While all the 58 women participated in the filling in of the questionnaire only 10 were actually interviewed in depth.

The males whose views were also canvassed are 21. Of these only three were actually interviewed in depth. The elements who constituted my subjects were selected using systematic sampling. This means that all the elements of study were chosen according to some specific plan or strategy, and not at random. I have already referred to the cluster of factors considered above, such as age, level of one's education and so forth. One further qualification must be made. There is one interview appearing under Appendix III E. The interviewee is not a resident of Phola Park. Her contribution was thought necessary by the researcher due to her expertise and experiences in working with both the rural and peri-urban communities. She was not chosen, for example, because she shares similar sentiments with the researcher. On the contrary, her views were as new to the researcher as I first became aware of them during the interview. Appendix V also records interviews of non-Phola Park residents. That is a group interview consisting of professional nurses of the Umtata General Hospital.

The selection of female participants was done by visiting eight sections of Phola Park of whom seven women were chosen per each section. Of these women chosen the criterion was to make sure that divergency of representation was achieved in terms of the categories enumerated earlier such as age group, marital status and so forth. The same strategy was used for male interviewees where three males were chosen from each section at Phola Park. Of the 21 men three were chosen per section leaving one section where no male interviewee was sought.

5.4.4 Data gathering methods

All the interviews were conducted in Xhosa while English words and phrases frequently featured, especially in Appendices C, E and H. During the interviews no tape recorder was used. Responses of the interviewees were handwritten during the course of the interview or immediately thereafter using shorthand written notes. Translation of the interviews into English was done soon enough after the interview.

To the extent that the interviews recorded here are translations this makes them susceptible to interpretation of the researcher. Similarly, the fact that interviews

were not tape recorded makes verbatim recording of them limited. However, in my opinion both these constraints are not fundamental. While direct words spoken are important they only have meaning within a given particular context. The translations of interviews which appear here, I would argue, reflect not just the words but the context-application in so far as words used by the researcher give a meaning of the context without which verbatim reporting would help little.

Furthermore, some of the information used here comes from the Bureau for African Research and Documentation (BARD) from the University of Transkei. This information is a recording of interviews which is stored on cassettes. The interviews were conducted in Xhosa and the English translations which appear here are my own translation. The interviews appear under the title: Life of the Xhosa Women and cover a wide range of issues, including, *lintsomi* (folktales), pregnancies, marriages, Xhosa dances and songs, and so forth. When references are made to these cassettes they will be reflected as BARD (1996).

5.5 Data gathering process: Difficulties and opportunities

The interview component of the fieldwork alerted me to some of the inherent difficulties connected with them. These difficulties are noted by Rosnow *et al* (1996) referring to them as "disadvantages of personal interviews". Below I list some of these as I illustrate my personal experiences in relation to them and how I tried to handle such situations. But also, these points have a direct linkage in terms of the analysis of the data collected as I critically reflect on them utilising the actual interviews which appear in the appendices.

First is the tendency of respondents to make 'socially acceptable response'. These responses I found them most common when a rapport had not been established between the interviewer and the interviewee. Talking with people as complete strangers to each other draws such kind of responses, especially on a sensitive topic as abortion. People merely engage in what might be characterised as 'ritual of conversation' just to pass away time in a casual manner without revealing *themselves* in the conversation. What Rosnow *et al* (1996) call 'socially acceptable responses', in this context I would describe it more as 'religio-culturally' affirming

answers. People conceal their own individuality behind what they consider to be religio-culturally acceptable answers.

The quality of personal contact can induce a respondent to speak with more or less confidence. The interviewer's presence may enhance comprehensiveness and objectivity in the recording of the information, but it can also cause interviewed people to refrain from expressing their real opinions or true feelings (Bless *et al* 1996:107).

I had many encounters of this experience. The common initial remarks I would get from people fall within the following responses: That the government is lax on criminals but wants to kill innocent babies. That abortion is 'un-African' in that it is against our traditional cultural values. For example, HE.2 line 1 in Appendix IIID makes an initial response that the government is introducing "things foreign to our culture". That one's church, the Bible or Christian faith is against abortion. For example, the respondent in Appendix IIIB. line 2 was initially insistent that abortion is against the teaching of the Bible. These are kind of answers which the respondent intuitively assumes the interviewee wants to hear. Short of guessing, the respondent answers back by returning the question to the interviewee, "What do you think yourself of the Act?". All these responses reflect initial engagement with 'strangers' on the subject of abortion.

Overcoming these difficulties and breaking through these walls was not easy. What I tried to do was to engage the respondents by asking further questions that sought to clarify their thinking on the answers given. For example, when a respondent raises the question of capital punishment I would ask questions to the effect that: Does this mean you agree that the right to life under certain circumstances can be compromised, or that it is not absolute? This would help to go back to the abortion discussion and further explore the nature of objection given. The case in point is demonstrated in Appendix IIID where after a complaint that the government is doing nothing about crime, the researcher responds by saying, "Would you like to see women who do TOP sent to jail? Is that what you would like to see the government do? (see Researcher. Line 4) It is these kind of probing questions that often brought the discussion back to the topic.

Another difficulty is to make the respondents believe that their responses will truly be anonymous. The physical presence of the interviewee and the taking of notes compromises those assurances. Unlike the first account where people make religiously-culturally acceptable responses, in this instance, people make what I refer to as '*politically expedient*' responses. This was my experience with some of the interviewees. People suspect you to be a disguised agent of the government who wants this information to 'get back at them' later should they show any inclination to be against what the government is doing.

One woman said to me, "You will be taking our responses to Mandela (the South African President) and then what happens if he doesn't like what we say?" Sometimes these politically expedient answers are not directed at appeasing the government than at pleasing one's spouse, or a parent or child, one's church or as the case may be. Individuals make responses which they figure would satisfy their *significant other/s*. Both interviews appearing under Appendix IIIC and IIID offer typical examples of such cases where one seeks to please either the church or one's spouse.

In such instances what I sought to do was to set an imaginary scenario (i.e. something like a case study) related to the abortion theme, like, stories of rape, AIDS and so forth. This allowed the respondents to engage in the discussion with minimum subjectivity and with less feelings of direct personal attachment. Also, I avoided taking notes during interview session where there was an indication that such an action would inhibit free flow of conversation. However, soon after the interview I would write notes on the conversation including my general impressions of the entire session.

Interviews provide opportunities for the interviewer to communicate to the respondent's 'subtle biases and expectations'. For example, the interviewee may make gestures in the form of a smile, a nod, frown or silence, or other kind of a body language. These movements are signs of communication which are interpreted by the respondent as either positive and inviting, or negative and dismissive. One then needs to be cautious of all these gestures which often might

be unintended but may lead the responded in a particular way of responding. I found this factor particularly true to myself during interviews. Perhaps, I was more conscious of it having been sensitised to it prior to my conducting of interviews. Being aware of these tendencies did not make me immune from doing them. However, it helped me to manage them better and thus make a better presentation of myself.

There are considerable rewards as well where personal interviews have been carried out. To begin with you can be certain of the identity of the individual who is responding to your questions. In a mail survey, for example, you have no way of knowing if only one person responded or if the response was a discussed, collaborative effort. Either way, it makes a great difference in how you would interpret the information given. This factor is extremely important in this research. I visited homes, for example, where I talked with both couples. At a later date I spoke with the wives separately and the responses were unbelievably different. With no exception, where the husband was part of the discussion the wife would soon be sidelined and become almost a spectator who only nodded in approval to the man's uncompromising anti-stand against termination of pregnancy. Appendix IIID is illustrative of this even though what we have there is a mixed group between men and female acquaintances. And yet on average men's contribution is substantially more even if substantively less, if one can make that judgement.

Secondly, the situational status of the respondent is easily discernable in terms of one's personal role in the family, because the interviewer can actually see the person. This point is closely related to the one made above. The African traditional culture which is hierarchical requires one to observe protocol when getting into a home as a visitor. Family structure is such that it assigns different roles and positions to its family members. The consequence of this was that although the focus of the research was more on women I had to introduce the topic to the man (husband) first. In most cases the interview would start with the husband and only later would the wife join in as an 'invited' guest.

As I have already indicated, in those instances the wife would hardly disagree with her husband's views which often would be against abortion. However, in most cases the man would leave us (i.e. myself and the wife) to continue the interview. But often, this would not be before he had made his own views known on the subject. I realise that this might have created an 'intimidating' atmosphere for the woman. So that both psychologically and emotionally, even though the husband would have gone, his *symbolic presence in absence* would continue to linger on. However, in some cases this did not appear to be the case. The wife seemed able to carry herself and assert her own views. This for example is the impression I got in my interview with the Mohamed couple which appears in Appendix IIIB where the husband left us continuing with the interview.

As for those still considered children (i.e. about 13 years of age and upwards as long as one is still attending school) they were completely left out of the interviews. I soon realised that under these circumstances I was going to gather a one sided version of the information. In two of my fieldwork visits I invited my cousin sister as my 'intern' so that she could engage the 'children' on the same topic while I discussed with the parents. Later, we would evaluate those sessions together including her discussions with the girls.

Thirdly, personal interviews generally yield a high response rate. This is due to the fact that personal interviews give you an opportunity to meet your 'would be' respondents directly. People, out of general courtesy, perhaps, find it difficult to turn you away without engaging you. This is certainly true within the African community where people feel almost obligated to attend to you once you enter their homes. This is where the interviewee must avoid being imposing or taking unfair advantage of people's etiquette.

I recall instances where many times I would be offered a tea/coffee or full meal. I felt very awkward at times because refusing to receive what is offered might be interpreted wrongly. Your host/hostess might think you are being pompous and uncultured (i.e. un-African). It may seem as if you are undermining what is being offered as 'not up to your standard'. On the contrary you might be having

completely different reasons, like not wanting to be overbearing to the people by making them feed 'one more stomach' unprepared. But from the traditional African culture this is furthest from the people's minds. Indeed, it is quite likely that partaking with them in whatever they are doing will make them more receptive of you and readily responsive to your questions. Occasionally, finding myself confronted by these situations I handled each differently as I judged suitable at the time. For example, I made it a custom to carry my meals. This helped me to join the people in eating while I was providing for my own.

5.6 Data evaluation and analysis

Data analysis which appears here is three-pronged. It is drawn first from the interviews which appear under the appendices and from those which are not. Lastly, it is taken from the Bureau for African Research and Documentation discussed above. Therefore, to a very large extent the information given here comes from oral sources which are the interviewees whose knowledge and experiences have not been documented into books. It is information which is collaborated by many stories which are known and told among villagers. Part of this knowledge constitute what is generally referred to people's folklore and folk tales.

During these interview sessions I wanted to gather information about traditional practices of the AmaXhosa and the present realities that inform their value judgement of abortion as a human right.

5.6.1 Ethics of abortion as it relates to minors

During the interviews it was conceded that sometimes young girls became pregnant even though sexual intercourse was strongly discouraged among unmarried partners. The practice of *ukusoma* discussed in Chapter Four was not always observed to the letter. How then within the African culture were such pregnancies received? This is one of the questions I posed to those I interviewed. This question was critical for me in the light of the new Act on abortion which gives the right to minors to terminate pregnancies without having to seek parental or guardian

consent. My particular interest was on whether in fact young women procured abortion and if yes under what circumstances.

In this regard it is interesting to note that most of those who filled in the questionnaire were against this clause. The respondents were asked to either agree or disagree with a statement that: It is a minor's right to decide if she wants to terminate her pregnancy without consultation with one's parents/guardian (other questions, see Appendix I). A high percentage of 95% both men and female (see Appendix II) were against this provision. However, during interviews the responses of parents indicate some ambivalence. While parents are opposed to their children procuring abortion without their consent, they were also adamant that they would not give such a consent (see Appendices IIIA line 6, IIIB SHE. I line 4). On the other hand, most males (33%) felt that the very reason some girls seek abortion is to conceal their pregnancies from their 'strict' parents (see Table 3, p.122). Among females this reason only registered 14% while that of *ukuphikwa* (male denial of responsibility) counted for 26%.

In traditional Xhosa communities, old women with whom this subject was discussed affirmed that in certain instances young women did procure abortion. But the practice observed strict cultural restraints. Firstly, I was made to understand the cultural norms which defined a young woman within African traditional cultures. This point has been deliberated in Chapter Four under gender construction among the AmaXhosa. It is within that cultural milieu within which what now follows has to be understood.

If for any reason, a young girl fell pregnant, a decision for abortion would then be initiated not by herself but by the parents or a guardian. The girl might not even be informed and the process is done in her complete innocence. I say *innocence* to stress the fact that the girl is still regarded by culture to be ignorant of what has actually happened to her. She cannot yet perceive implications and complications related to her present state. Therefore, a decision would be taken on her behalf. The belief is that for a young girl (i.e. before the girl is considered marriageable depending on the physiological development of the individual concerned) having to

make that decision alone will stretch her emotional resources beyond her limits thus rendering her retarded in later life in one way or another. Also, the fear is that the girl might take a decision in isolation which violates social mores thus upsetting the ancestors, bringing her family into disrepute and sending calamity to herself, family or community at large.

The adults carry that responsibility for her by placating the living dead in a suitable manner. This might involve the slaughtering of an animal, the use of certain herbs, or even verbal reporting of the situation to the ancestors pleading for their understanding. The decision to dispense with life is an extremely delicate one which must receive validation from the living, including the living dead. For an appreciation of this point the interviews with Nokuzola and Dr Ngalo are critical (see Appendices IIIC line 11 and IIIE lines 5 and 6).

5.6.2 Ethics of abortion as it relates to gender assignments

Xhosa traditional culture delegates decision making according to the nature of issues being discussed. Some issues are regarded as appropriately feminine while others are handled by men. By and large women exercise greater freedom in the discussion and deliberation on sexual issues among themselves. Tradition assigns women to the role of raising girls and instilling feminine virtues in them, whilst with boys, their male tutors are left to instill the masculine qualities. These points were discussed in some detail in Chapter Four under gender construction.

While a girl is encouraged to be tender, affectionate, clean, submissive and polite, boys are encouraged to be aggressive, assertive, bold, and resourceful. The result is that if for any reason termination of pregnancy became an issue that decision would in all probability be decided within the women's court unknown to men (see Appendices IIIC line 4 and IIIE line 4-5). Common wisdom is that this is a women's issue and men are unequipped to handle such sensitive issues which are emotionally and psychologically exhausting! (BARD 1996).

There is another reason which makes Xhosa men find themselves hopeless when it comes to female sexuality. This relates to the physiological characteristics of a

woman's body. The many bodily changes which happen when a girl is growing up not only fascinate a Xhosa man, but also confound him. My understanding is that this is true of many African traditional societies. For a start, a woman's menstruation is somehow disdained by men who associate blood with death or some superstition. Consequently, one finds prescriptions that ostracize women from certain social and religious activities. The growing of breasts and their producing of milk is yet another mystery of a woman's body. So that while Xhosa men are consumed by their love for sexual intimacy, they find themselves not at ease to talk about human sexuality in general. This is all the more compounded by the reserved nature of the Xhosa culture in talking freely and uninhibitedly about sexual matters.

It is therefore understandable, even if unacceptable, that issues of pregnancy and unwanted pregnancy are left within the domain of the women's world to exercise their own discretion. But this discretion, it is important to emphasize, is exercised within the defined parameters of people's culture so as not to upset the harmonious and mutual existence of the whole created order as argued, for example by Nokuzola (see Appendix IIIC lines 9 and 11).

5.6.3 Ethics of abortion as it relates to infidelity

Most of Xhosa families have experienced situations where the husband has to work very far away from home. The wife remaining behind may start a relationship with another man (see Appendix IIIC line 3). What happens if she falls pregnant? Based on the interviews conducted, it appears that traditional Xhosa communities are familiar with instances like these. But such instances are often hidden from the public. Indeed, such instances by their very nature are embarrassing. The embarrassment is, however, not only to the individual wife but to the family and the womenfolk as a whole in the community (see Appendix IIIC lines 3-6).

When such pregnancy is brought to the attention of the senior members of the family or the biological mother of the woman becomes aware, according to the interviews conducted and information from BARD (1996), three things could happen in regards to such a pregnancy. If the woman is already advanced in

months she would be sent away where nobody would know the circumstances surrounding her pregnancy. She would deliver and leave the child there to be raised by those distant relatives. Alternatively, if the woman was still in her early months induced abortion would be done in complete secrecy from the rest of the family members, including the husband of the woman. If in the village there was no woman who could perform the abortion infanticide was resorted to immediately after the baby was born (see Appendix IIIE lines 3-4). Both these actions would become *ihlebo labafazi* (i.e. a women's secret).

5.6.4 Ethics of abortion as it relates to the five traditional factors

Five 'classical' reasons have dominated the debate over the years whereby termination of pregnancy has been sought by women. These are instances of incest, rape, severe malformation of the conceptus, risk to the woman's physical or mental health and the socio-economic reasons. These factors are discussed below in relation to the Xhosa customs of how such cases were treated. Information reflected here comes from both the interviews and BARD (1996).

Incest refers to sexual intimacy between blood relations. African definition of incest is rather broad and includes many relations outside the nuclear family. For example, these would include primarily one's aunts, sisters-in-law, step-sisters, mother-in-law, step-daughters, daughters of a sister-in-law, and granddaughters. In this regard it is close to the biblical definition of all prohibited sexual relations. Essentially these prohibitions cover almost all the females in an extended family.

Contrary to the popular belief which denies cases of incest in traditional African communities, such cases were not completely unknown despite being prohibited. What seems strange today is the sheer rate at which these cases are happening. But even more shocking today are the reports of biological fathers who sleep and impregnate their own daughters (see Appendix IIID SHE.III line 1). Xhosa communities had developed ways of handling cases of incest. In terms of the interviews gathered such cases were dealt with the same way gender assignments was discussed above.

The statistics on the question of abortion in instances of incest make a rather peculiar reading. For example, a strong figure of 62% of men felt that cases of incest gave women a strong reason to seek abortion (see Appendix II quest.8). This is in contrast to a mere 26% of women. It is interesting to note that under question 4 (in Appendix I) which sought reasons why some women decide to terminate a pregnancy, neither the males nor females wrote incest (see Table 3, p.122) for the reasons that were suggested by the interviewees). An analysis of this phenomenon is given below under the sub-section which discusses rape and incest. There were no recollections of pregnancies resulting from rape from the people interviewed, while instances of such acts were not denied. It has to be noted here that the term 'rape' was used in its limited, traditional sense in which an unknown stranger or an acquaintance forces himself on a woman, penetrates her, which results in pregnancy. In contemporary culture the word is used more broadly to include even couples where the consent of the woman was not sought. I am almost certain that with the second definition of the word most African women would qualify as victims of rape pregnancies where the woman's 'No' is often interpreted to mean a 'Yes'.

In terms of the responses received from the interviews conducted, women gave different answers. Asked if one would seek abortion if she became pregnant as a result of a rape, some women gave an unambiguous 'Yes' while others answered with a qualified 'No'. Possible reasons for these contradictory responses seem to depend on a number of factors, such as, one's socio-economic condition at the time, one's career and goals in life, one's religious and cultural persuasions. An analysis of rape pregnancies is discussed below under 'ambiguities and ambivalences'.

Severe malformation of the conceptus is the third factor which is sometimes given as reasonable grounds for a woman to seek abortion. How did traditional African communities deal with such types of cases? To begin with traditional communities would not have known the physical condition of the conceptus prior to birth. It is modern technology and general advancement in medicine that today one can detect the physical condition of the conceptus.

Among the traditional Xhosa communities, based on the information gathered from fieldwork, a child who is disabled or handicapped in some way tends to be viewed, at least in two ways. Firstly, such a child is viewed as a punishment from God or ancestors as a result of a misconduct of its mother. For example, if one laughed or ridiculed a poor, or insane person, it is believed that one is likely to get a handicapped child. Also, if one laughed or ridiculed an albino, or another handicapped/disabled person, one should not be surprised to get a disabled child. Giving birth to such a child is what one deserves as a result of one's previous unwelcome behaviour.

Secondly, the birth of a disabled child may be attributed to the will of the ancestors for no particular bad reason. Where no instances of the mother's misbehaviour can be recollected it is assumed that the ancestors have decided to make their presence in this home through the birth of a handicapped/disabled child. This child then is received with great admiration and affection, and is treated kindly as the symbolic presence of one of the members of the ancestors.

I must add that there were cases narrated to me that other Xhosa groups practised infanticide and did not raise such a child (see Appendix IIID line 7). This is why in the traditional Xhosa communities handicapped children were a rare phenomenon, so I was told. Severely handicapped infants, this Dr Ngalo informed me, were regarded as a burden to the would-be-mother and were even feared. The midwives simply suffocated such an infant and 'buried' her/him in a small grave made under the pile of woods collected to make fire (*egoqweni*). The reason this particular spot was chosen is because Xhosa men do not go next to *egoqweni* as the place is called (see Appendix IIID line 4-5.). Again this becomes *ihlebo labafazi*.

In the contemporary Xhosa communities, however, there seems to be a change of attitudes as regards the types cases discussed above. Both men and female (54% and 52% respectively) objected to termination of pregnancy as a result of conceptus abnormalities (see Appendix II quest. 8). Only 28% of women condoned TOP under such cases while 16% strongly disagreed besides the 52% who disagreed. Under such a strong opposition it might be a good thing that TOP in

such cases under the new Act, is recommended by a medical doctor and not so much initiated by the woman herself. But still, it would seem that strong counselling both pre-counselling and post-counselling is required by the woman to come to terms with such a situation.

Pregnancies that threaten the health of the woman are commonly reported in traditional societies. Many women have lost their lives as a result of such pregnancies. Indeed, even to date many women's lives are still in danger due to unsafe pregnancies which are hardly diagnosed because of the lack of clinics and hospitals. For example, in my home area through my discussion with women, I became aware of the fact that many rural/peri-urban women continue to reach their full term of pregnancy hardly attending regular check up from their health centres. Health services are sometimes not there or are ill-equipped to render quality service even for the mundane services.

The choice then for these women is not between losing the child for the sake of the mother. Instead, both the mother and the child often lose their lives. It is rather a sad irony that women on this issue were almost evenly divided when it comes to TOP. While 33% of women thought that a woman's health consideration warranted TOP, a strong 35% strongly disagreed (see Appendix II quest.8). In this respect men were more liberal than women with the approval of 32% with none strongly disagreeing (see Appendix II quest.8). I must add here that women's objection to TOP even when the life of the woman was threatened ironically enough are borne out of the desire to safeguard the life of the woman. Most women fear that the very act of abortion might result into worsening her health condition than improving it. Of those interviewed 35% regarded abortion not to be a safe operation and thus a reason to oppose it (see Table 1, p.120 below), while men did not even mention the question of safety.

The socio-economic reasons among all the other reasons for abortion remain the most controversial even among those who are often sympathetic to abortion. The reason is that in this instance neither the life of the conceptus nor that of the mother is under any immediate threat other than the economic hardship of the

woman. One's socio-economic status is not necessarily a permanent station while taking the life of the conceptus cannot be reversed. This is the ethical dilemma. Traditional Xhosa families, based on the interviews conducted would not have considered the socio-economic factors to be legitimate. The organizational structure of the family was such that many forms of support would be given to the individual concerned. Child rearing among these traditional families was a shared responsibility.

However, in contemporary society the situation is quite different as women's socio-economic position defines who they are and what decisions they are able to make about themselves. It is worth noting, for example, that Table 3 indicates that economic reasons were rated highest by respondents as the most common reasons which account for unwanted pregnancies. However, even here the situation is somehow complicated. Question 4 in the questionnaire asked interviewees to write reasons that might lead some women to seek abortion. The following question asked the interviewee to arrange those reasons indicating which one's the interviewee would be sympathetic with. Under this question economic reasons were mostly cited by the interviews as reasons they would be most sympathetic with (see Table 3, p.122). However, when the interviewees were asked on question 8 to rate their feelings in terms of approving TOP under certain categories of human need economic reasons included, the answers were quite different compared to answers given under question 5 even to the point of being contradictory.

Respondents seemed to answer question 8 independently of question 5. For example, 49% of men and 40% of women scored economic reasons as the one they would be more sympathetic with, while only 14% and 21% respectively ticked 'agree' for economy as a reason to seek TOP. Of course, for women 12% strongly approved TOP under economic reasons besides the 21% which 'agreed'. Nevertheless, the support for economic reasons declined compared to its strong showing in question 5. These 'discrepancies' reveal internal contradictions within individuals in thinking and deciding about abortion. These internal dissonances are to be expected in any moral/ethical reflection. As people begin to grapple with

these moral issues ambiguities and ambivalences begin to surface. Perhaps as people begin to deliberate on these ethical issues in time they may gain more clarity concerning their own feelings and thoughts.

5.7 Abortion, African culture and the church

One of the questions that persistently came up during the interviews was the role of the church in the abortion debate. The question is, does the church have any role to play in the abortion debate? If Yes, what is that role? If No, why? In this regard my conversation with Mrs Magasa of Phola Park was the most frank and honest (see Appendix IIIA lines 7-9). First of all she was very clear in her mind that abortion is wrong. Like many others I interviewed, she maintained that the Bible is against murder and this is what abortion is (see also Appendix IIIA line 2-4). Mrs Magasa continued to say that the church should relentlessly preach against abortion. This is despite the fact that, as she said it herself,

People will disregard what the church preaches and will do abortion. This is because sometimes women have genuine reasons why they have to do abortion. But the church does not always understand. Anyway, the church is doing its job. It must continue to preach good morals. But God understands why at times women do abortion.

I must confess that my conversation with Mrs Magasa left me deeply moved. What disturbed me most was the suggestion that the church may not be speaking on behalf of God when it rejects abortion outright. Even so, Mrs Magasa's insistence that the church should continue to make moral pronouncements raises the problem of orthodoxy versus orthopraxies. Are the two antithetic to each other? How does the church bridge that gap?

However, according to Nokuzola (see Appendix IIIC lines 9 and 10) the reason the church must preach against abortion is more than just to be faithful to its call of moral rectitude. Rather, the church preaches or must preach morals because the life of both an individual and that of the community in order to reach its equilibrium of fulfilment depends on God via the ancestors. So that when the church preaches against abortion, it is in fact promoting a high regard for life whose observance can

only translate into a heightened sense of promoting good for the other. In this regard it is important to note that the increase of abortion cases according to SHE. III is associated with the loss of "our sense of being there for the other" (see Appendix IIID line 1). It is this feeling of *koinonía*, of a community that has to be promoted by the church so that its members begin to "share one another's burden and thus fulfil the law of Christ" (Gal. 3:6)

The dilemma facing the church equally applies to the African traditional culture. Those who oppose abortion merely on the basis of culture and tradition must think again. Campaigners for the re-establishment of African culture must note Mrs Magasa's comments which were shared by many respondents even if in not in so many words. According to her traditional culture with its customs are gone and can never be recovered (see Appendix IIIA line 7). So that while she condemns abortion to be wrong, equally she concedes that today's young people cannot be expected to observe, for example traditional practices of *ukusoma* which have become 'outdated'.

This appreciation of a new age with new demands is lacking in HE. I (see Appendix IIID line 2) who continues to lament the 'good old days'. Of course, this nostalgia of the past is quickly dismissed by Dr. Ngalo who critically sees the upper hand of patriarchy even in that 'glorious' past so fondly missed and remembered. "*Kudala amadoda edlala ngathi*", meaning, "men have played with/dominated over us for a very long time". Accordingly, the new era, according to her has to be welcomed with its emphasis on women's rights (see Appendix IIIE line 9). However, on the whole it would appear that religio-cultural beliefs of the general public militates against any quick change in the mindset of the people as regards abortion. The statistics recorded below reveal a noteworthy scenario.

Table 1: Reasons against abortion

	Males			Females		
Reasons	No.	%	Totals	No.	%	Totals
Religious	10	48	21	28	48	58
Ethical	16	76	21	17	29	58
Safety (of woman)	0	-	21	20	35	58
Cultural	5	24	21	1	2	58

The above statistical data once again reveal the strong religio-cultural orientation of the African communities. Religious objections against abortion ranked very high among women. By religious objections I refer to cases where women cited the bible or one’s church as reasons against abortion. Very few women advanced culture as a reason against abortion. On the contrary, men were more eager to cite ‘African’ culture to be against abortion. These gender differences may be explained by men’s general ignorance of *ihlebo labafazi*. In this regard women seem to have done a pretty good job to conceal their secret from men!

However, one must concede that cultural reasons against TOP by men still record very low in comparison to both religious and ethical reasons. But this is only true on the surface. When men offer religious and ethical objections to TOP these objections in all accounts add up to cultural reasons. For example, religious objections are explained in cultural metaphors thus reducing them to cultural objections. This is so because the Old Testament is used to justify an already established personal position informed by one’s culture (see Appendix IIIB line 4). The same is true of ethical reasons. These are responses which avoid explicit mention of either the bible or culture. On the surface such objections wear a mask of being philosophical, such as, a claim that TOP is wrong because it destroys an innocent life. Further investigation of such responses often yielded to religious objections which in turn can be traced back to cultural undertones. The critical issue for me is to foreground both the religious and cultural orientation and deal

with them openly. This is what the next chapter will seek to do informed by these realities mentioned here.

5.8 Hospital interviews and Actual abortion cases

I now proceed to a discussion of the actual abortion cases at the Umtata General Hospital. But this discussion in order to be meaningful is done within a broader investigation of the possible reasons why women seek abortion hence Table 3 appears below Table 2 . These possible reasons for abortion were sought from the Phola Park residents although they are collaborated by the nursing staff interviewed as this will be shown in due cause. I present and discuss these together with the hospital cases of actual abortions.

Table 2: Abortion cases

Age	Married	Single	Totals	%	No.of cases
11-16	5	18	23	7	311
17-21	54	47	101	33	311
22-26	41	43	84	27	311
27-31	26	37	63	20	311
32-36	6	18	24	8	311
37-41	3	12	15	5	311
47-51	1	0	1	0.3	311

Table 3: Possible reasons for abortion

Reasons	Males	Totals	Females	Totals
Rape	24%	21	35%	58
Strict Parents	33%	21	14%	58
Infidelity	14%	21	29%	58
Economical	49%	21	40%	58
Health	10%	21	12%	58
Abnormalities	0	21	7%	58
Ignorance	24%	21	16%	58
Denials	24%	21	26%	58

Table 2 above shows a sample of actual abortion cases at the Umtata General Hospital. This is a sample taken out of a total of 934 cases which had been procured between March up until August 1997. The 311 figure represents abortions procured between July up until September. These three months were chosen simple because they were better recorded compared to the other months where entries were either not yet made or were poorly entered with gaps where critical details of clients were missing, such as age or marital status. The absence of properly kept records almost nullified a section of the questionnaire, such as Part 1, Quest.3 (see Appendix II).

There are two types of forms which clients have to fill in when they seek to procure abortion at the Umtata General Hospital. These forms appear in the Appendix VII as Annexure A and Annexure B respectively. During the first two months of February and March no records were kept related to TOP cases performed.

When TOP first started there were no rules or procedures in place ... What was done was to prescribe for the clients Misoprostol (cytotec) which clients self administered at home. Clients would only come to

hospital for evacuation and cleaning procedures (see Appendix V SHE.I line 5).

This effectively meant that both Annexure A and B were not filled in as abortion clients were only admitted to the hospital as either incomplete abortion or complete but sceptic cases. At the beginning of May new procedures were introduced at the Umtata General Hospital with a view of making the admission system more efficient and manageable (see Appendix V SHE.1 line 5, SHE.III line 2 and SHE.II line 3). However, the problem encountered by the researcher was that even after the month of May both Annexure A and B which by now should have been filled in were not available. The researcher was informed that although this information had been collected the forms had not yet been filed. This made it difficult for the researcher to analyze the actual abortion cases, such as the 311 appearing on the table without the personal details of each client at his disposal. Whatever analyses then which will follow is done circumspectly.

Looking at Table 2 from the total of 311 abortion cases a categorisation of five years intervals is made. With 33% of abortion cases between 17-21 years this represents the highest proportion of abortions procured compared to all other categories. What is even more alarming within this category is the fact that married women exceed in number by 54 cases (53%) to 47 cases (46%) the number of single women.

Unfortunately, without other critical variables like, number of children one already has, employed or unemployed, studying or not, first time abortion or not, rural/peri-urban background and so forth, one is unable to draw any significant conclusions about these observations. For example, why married women seek abortion would depend on a host of factors, not least among these would be the present quality of her relationship with her spouse and her economic position if she were to fend for her baby as a single parent.

Whether the reasons are the same with the single women cannot be ascertained with any certainty, although one could expect a convergence of circumstances. This is because in Table 3, of the eight reasons given by the interviewees why

women seek abortion, the most prevalent reason was economical by 40% (i.e 23 woman out of 58) and infidelity by 29% (i.e. 17 women out of 58). One could add under infidelity the 26% of denials which cause some women to seek abortion. Denials in Xhosa means *ukukhanyela* or *ukuphika* and refers to cases of pregnancy whereby the boyfriend denies being responsible for the pregnancy of his girlfriend. Such denials seem common especially among young people in secondary and tertiary institutions. Young men abruptly end the relationship once they hear about the pregnancy of their partner.

The number of abortions between ages 22-26 is still comparatively very high. Again, there is practically no significant difference between the married and single women, who respectively record 43 (51%) and 41 (49%). However, from 26 years onwards there is an observable decline when comparing the married women to single women. A steep difference appears between 32-36 ages where figures show a number of 6 married women out of 24 women (i.e. 25%) sought abortion. This is against the number of 18 single women (75%) who sought abortion.

Of significance, as well, is a sharp slope or curve downwards when comparing ages from the lowest to the highest of women who seek abortion. Irrespective of their status as married or single, it would seem that with maturity in years fewer and fewer women seek abortion. This could mean that the level of general ignorance concerning one's sexuality and the measures taken to avoid unwanted pregnancies is higher to senior women as compared to younger women. In other words, the 'risks' of unwanted pregnancies are higher to the young adult women than to the mature women whether married or not. This observation seems justified if one notes that in Table 2 16% of respondents (i.e. 9 out of 58) gave 'ignorance' as a reason that leads to unwanted pregnancies. Such ignorance it is safe to assume counts for those young girls who fall pregnant for the first time.

5.8.1 Rape and incest cases

In my interviews with the nursing staff at Umtata General Hospital the above analysis of abortion cases in terms of age variation seems to be sustained. However, an added valuable information also comes to light, an information which does not overtly appear from 'ordinary' community members both male and female. This is the information which has to do more with cases of incest and rape. A close examination of these cases reveals both ambiguities and ambivalences from both sexes.

In the absence of written records I had to take the nursing staff at their word. Asked if there were observable pattern why women come to the hospital seeking abortion, the responses were as follows: Firstly, as far as abortion seekers relate to young women (i.e. 11-21 years) two reasons were given. The first reason has to do with cases of incest where there is a clear child abuse by the girl's father or a relative (see Appendix V SHE.1 line 9). Surprisingly, this factor is missing both from male respondents and female respondents in Table 3. The male respondents may be quiet about it because it is, after all, men who are perpetrators of these crimes. But is this enough reason why *all* men are quiet about it? Similarly, is the fact that it is commonly women who are victims of sexual abuses enough reason why women prefer or choose to keep quiet about it?

For both questions there can be no definite answers. One can however offer tentative answers based on my conversations with social workers who have counselled such victims. The section of men, to the extent that they are directly involved in sexual abuse would like to conceal their involvement even to the point of denial. Consequently, even when confronted about it in the form of a an 'innocent' interview rather than admitting it as a reason for abortion one conveniently glosses over it. On the other hand, men who are innocent of such a crime find it difficult to actually imagine that such a crime does exist. If it does exist, some men seem to think that a 'child'-as they think of such a young girl-can in fact not become pregnant. This reasoning reflects a fundamental ignorance and naivety of men concerning women's sexuality, indeed, even their own.

The reasons why women prefer or choose to keep quiet about unwanted pregnancies resulting from sexual abuse seem to be two fold as well. The victims themselves are often traumatised by the whole incident and find it both emotionally and psychologically overwhelming to talk about it. This may account for the reason why no women mentioned it. For those who are not victims themselves, mothers of victims find it difficult to admit that their husbands/step-fathers, or whatever the relationship may be, are sexually abusing their children. Even when the child finally reports these episodes of abuse, initially the mother vehemently disputes such 'allegations' as figmentations of the imagination, aimed at smearing her 'innocent' partner.

There were cases reported to the researcher where even when the actions of the male adult become known to his spouse, no action is taken to rectify the situation for fear of one losing, together with her children the economic support from the male abuser. This is usually the case where the man is the breadwinner of the family. In this regard it has to be noted that in most homes where there is a husband, the man is almost and always a bread winner of the family. This gives men greater leverage over women in terms of power dynamics in the relationship.

Finally, the comparisons between male responses and female responses to the same questions are also significant. In this regard I want to highlight rape as a reason for seeking abortion. Interestingly, both sex groups gave rape as one strong reason why women seek abortion. This is despite the fact that in reality pregnancies as a result of rape are very rare compared to all other reasons which give rise to unwanted pregnancies. The reason rape pregnancies received such a high score may have to do with the publicity in which rape cases have received from the mass media. Also, because of the dramatic nature of such incidents, their repulsive (and often impulsive) nature, people seem to share a common view that subsequent pregnancies are equally repugnant and should be 'expelled' without the victim feeling 'sorry' for such an action.

It may also be true that men condone such an action for their own selfish reasons (see Appendix IIIB HE 6b and 6c). In that interview, Mr Mohammed said that if his

wife became pregnant as a result of rape, he would prefer that she aborts without him being told. The reason he gave was that he was not sure how he would handle knowing that his wife has been raped. He found the thought of having a wife who has been raped 'embarrassing' to himself, and thought it would have a negative effect on their future sexual life. From this perspective then, men's acceptance of abortion is intended to safeguard their selfish ego more than attending to the women's victimisation.

5.8.2 Nature and scope of counselling offered

One of the questions asked by the researcher to the nursing staff related to the nature and scope of counselling service TOP clients receive at the hospital (see Appendix V lines 7-13). The present form of counselling being offered is far from ideal. Firstly, there are no trained health workers like psychologists to counsel clients. It is the ordinary nurses who are on duty at the time who are expected to do the counselling. However, based on the researcher's interview with the nurses it is quite clear that attitudes of some nurses are negative to TOP (see Appendix V line SHE.I line 4 and SHE.II line 2).

The situation presented above compromises the nature of counselling clients receive which tends to be a 'threatening' type of counselling. The nurses the researcher interviewed did not hide the fact that often when they counsel clients they try to 'talk them out' of the decision to abort. They do this because they are not convinced in most cases that the client has 'good' reasons to abort (see Appendix V).

One can understand why 'young girls' (see Appendix V SHE. I line 9) go to the hospital as a 'drove' when they seek TOP. They are frightened of seeing a nursing staff they might know and are afraid of the general negative attitude displayed by the health workers to those who seek TOP. It has to be noted that the client's own feelings about abortion she seeks can only be exacerbated to a self destructive point if she finds only condemnation and judgement instead of being allowed to make her own choice based on the unbiased information presented to her in an

non-partisan manner. And at present this does not appear to be the case at the Umtata General Hospital.

Lastly, the scope of counselling appears to be very shallow and restricted (see Appendix V SHE.II line 5- SHE. I line 7). The type of counselling given seems to be limited to possible side effects abortion may have to the client, such as, not being able to conceive again, family planning and safe sex. The client's psychological and emotional profile, her religious and cultural constitution are entirely ignored. In short, abortion is treated merely as an event that happens and ends once clinical procedure is over. The fact that the client needs a sustained period of counselling is brushed aside.

5.8.3 Accessibility of TOP

Under this sub-section three issues must be raised even if discussed only briefly. The rural/peri-urban women will continue to be ill catered for when it comes to the actual accessing of TOP. Not only do they present themselves late for TOP they are also less informed of their rights in terms of how to assert themselves and make sure that in the end the decision they make is their decision and not that of the health worker, whether for or against abortion.

Young schooling women who become victims of unwanted pregnancies are also receiving unfair treatment. It would seem that cultural biases against them continue to be reflected through the nurses who see them as 'children gone astray' (*balahlekile abantwana bethu*, see Appendix V line 7). Lastly, the newly introduced procedures of admittance for TOP, much as they may be needed administratively, also raise moral questions. For example, the exclusion of many TOP seekers as a result of the shortage of space and personnel is a serious issue for those clients who present themselves at the hospital. This is regardless of whether one is for or against abortion. The fact that many women continue with unwanted pregnancies and will continue to raise unwanted children causes them significant emotional and psychological stress. Subsequently, many will continue to risk seeking unsafe backyard abortions (see Appendix V SHE.I line 10).

5.9 Evaluation

Two key issues that need to be further interrogated in this sub-section relate to the notion of *ihlebo labafazi* and men's distance from women's sexuality, under what was characterized as gender assignments. The term *ihlebo labafazi* carries a double interpretive meaning. It has both liberating and empowering elements on the one hand, and inhibiting and demeaning elements on the other. To the extent that women were given a space to manage their own sexuality without male interference, the term is liberating and empowering (see Appendix III E line 6). At least women could claim their bodies to be their own.

However, this ownership, it is important to note, was a collective ownership and not an individual ownership. If the woman procured abortion without midwives acting as her accomplices she would receive extreme condemnation and would be jettisoned by other women (see Appendix III E lines 5 and 6). This created risks and problems because one could never speak of freedom in an individual sense to decide on her own what to do with an unwanted pregnancy (see Appendix III E line 11). There was too much at stake for women who became pregnant as a result of relationships with married men. For an unmarried woman, if she carried the pregnancy to the full term, she risked being ostracised from society and being called by degrading terms. But if she decided to abort, who would assist her in getting that service because she would be treated with disdain in the local community?

Similar attitudes prevailed concerning married women who had adulterous relationships resulting into pregnancies. *Ihlebo labafazi* while it shielded women from male hostile environment, for the woman it meant that she was living a life of 'blackmail' from those women who kept the 'secret' on her behalf. The situation was also worse for the woman who after a failed marriage became pregnant while staying at her home. This woman became isolated from all social gatherings and activities (BARD 1996).

Lastly, it is clear that men's withdrawal from issues of women's sexuality placed women in a situation of constant threat as to what will happen if *ihlebo labafazi*

became a public scandal? The entire women group would risk severe repercussions from the male society who would criminalize the whole women establishment. This in turn would reinforce men's prejudices against women in general.

It is almost unbelievable to think that hardly a generation later, the Xhosa traditional points discussed above have become almost redundant to most African communities and have survived as mere memories of the past. And this is where the difficulty lies. For example, among the traditional African societies if a young woman of marriageable age became impregnated by a young man, tradition demanded that the young man marries the young woman. Pregnancies out-of-wedlock inexorably led to marriages. This was to avoid the embarrassment of bearing an 'illegitimate' child and the ill-treatment one received from society. Abortion was hardly a choice as getting married was the only imaginable outcome to the premarital pregnancy.

In contemporary society out-of-wedlock pregnancies are judged differently. More toleration, if not complete acceptance has become the norm. Today most young people whatever their level of sexual activity, seem to have a different expectation. Petchesky's (1990:135) observations are that, "Access to birth control and legal abortion have contributed to a changing consciousness among women that they might legitimately defer marriage and childbearing to other goals and needs, without deferring sex." What then becomes of *ihlebo labafazi* in the contemporary culture? Has it become redundant? Has not the legalization of abortion empowered individual woman thus giving her *ihlebo lomfazi* (singular) replacing the old *ihlebo labafazi* (plural)? Surely, woman's right to confidentiality between herself and the medical doctor has guaranteed her something which formerly was compromised by *ihlebo labafazi*.

As for men's historic distance from women's sexuality, the constitutionalization of women's reproductive rights ensures a definite chasm between the two. This situation is lamented by some while welcomed by others. Men's rather belated interest on women's reproductive health is viewed suspiciously by women. They

see it as a ploy to curtail their hard fought constitutional gains to decide independently about their fertility.

My own assessment is that *ihlebo labafazi* can still be rejuvenated to operate in a manner that accommodates rather than excludes other sections of women formerly put at risk due to cultural stereotypes. Among the rural/peri-urban communities this service can function with an expressed intention to counsel women with unwanted pregnancies. It can be utilized for both pre-counselling and post-counselling in cases of abortion seeking. But it would need to be formally structured and organized so that it addresses wider issues of women's sexuality, like, family planning, safe sexual practices, general health issues and so forth.

In relation to men's involvement in cases of unwanted pregnancies, the issue is more complicated. Firstly, it would depend on the nature of the relationship between the woman and her partner, for example, are they married or not married? Secondly, it would depend on the nature and the scope of man's involvement in the decision making process itself. For now, let me point out that these issues will be revisited in some detail in Chapter Six.

5.10 Consolidation

In this chapter I discussed the fieldwork processes followed in the collection of the data. Statistical information was also utilized with the intention of assessing to what extent is this service being used by the African women. A conflict of interest has been shown to exist between the church and the African culture, as interpreted by the traditionalists on the one hand and the individual woman exercising her democratic right to abort on the other. These differences were analyzed using categories of religio-cultural orientation and socio-economic reasons on the one hand and the individual's assertion to procure TOP on the other. African culture, like the church, is seen by a growing number of women as oppressive and chauvinistic. A call to recover African culture is seen as a disguise to enter male domination through the back door. The question is whether these two systems, namely, the church and the African culture can be redeemed or if in fact they are perverse to the core. It is with this in mind that I now proceed to the next final

chapter of this thesis. The problem is real and colossal. But I believe it is not insurmountable.

From what was said in this chapter it would appear that individual empowerment, especially as this relates to African women, will depend firstly on the woman's ability to handle her religio-cultural orientation. But this orientation is not deeply seated to the point of being evaluative of the individual's moral-ethical decision making. Instead, one sees both an internal and external dissonance between what a person believes and how people act out their faith. A form of alienation constituted by a lack of authenticity can be observed. This failure to blend faith, culture and individuality produces a divided if not a false identity. It would seem that the socio-economic conditions of the person are in the end more determinant of the individual's evaluation of abortion. This is why individuals when all things are considered choose to abort. While socio-economic reasons for performing abortion remain the most controversial within the religio-cultural milieu they remain one of the most dictating of the individual's situation.

One of the constraints of these interviews is that the views expressed are not those of the women who have personally procured abortion. Some of them might have but they would not disclose that information to the researcher. People only spoke hypothetically, "If I was in that position, ..." Or "If my daughter faced that situation ...". In this sense the data collected is of a secondary nature. While this does not make it unimportant, it does limit one's insight into the thinking of those women who are directly confronted with the decision.

CHAPTER SIX

THE *PRO-IMPILO* ALTERNATIVE

6.1 Introduction

This chapter continues to be in dialogue with the community of the Christian faith and the political system of democracy with its attendant culture of human rights. These two systems are now critiqued within the conceptualization of the *pro-impilo* paradigm as an alternative option within which to locate the issue of abortion. In Chapter Four it was shown that African traditional communities stress the bifocal character of one's identity as that of a person-in-community. In the same chapter a conceptualization of Xhosa ethics of abortion utilising traditional customs and practices was suggested. The implications of what this might mean for the abortion debate were illustrated under consolidation of that chapter. Let me summarise the critical points here so that an integration of this chapter with Chapter Four and Five is systematically developed and sustained.

In Chapter Four it was shown that the notion of a person-in-community although a positive concept, it conceals the often unannounced experience of women, namely, that this communal existence is not founded on gender equality. Traditional gender construction with its accompanying social stratification compromises women's rights, short of completely nullifying them. A conclusion was then reached that the experience of being a woman within that cultural milieu generates feelings that life as lived is not life as aspired for. Furthermore, although marriage is an ideal within which procreation receives divine-ancestral validation, even then a woman's position remains a precarious one due to issues of fertility and child gender preferences. The obsession with male children not only discriminates between children but equally robs the woman of her position and status within the family, as the male child soon assumes authority second only to that of his father.

Lastly, as regards ethics of abortion Chapter Four introduced five principles upon which a reflection on abortion could take place. Firstly, is it abortion within

marriage? Secondly, one's significant others should be informed. Thirdly, the question of gender assignments was introduced with its elements of selectivity and confidentiality. Fourthly, a distinction was made between legal jurisprudence of an action and a sense of feeling good and right about what one has done. Lastly, the fact that in deciding about abortion one does not only depend on cold rationality of facts but on emotion and intuition as well. In conclusion, five polarities of human nature were discussed which summarised a comparison between Xhosa and Western ethics on abortion. This was done in order to confront the reality that traditional value system as enunciated above faces contending value systems, such as those of the West.

This chapter attempts to bring the discussion of this study to a conclusion. This is done by focusing the discussion on *pro-impilo*, suggesting an *African* solution which will take us beyond the present impasse on the abortion debate. In proposing an alternative, the fieldwork findings will be seriously taken into account as well. This will make the study relevant to African women's situation which often is characterised by having to mediate African culture, values of the Christian faith and the human rights culture. In this regard let me highlight some of the critical issues that came to light in Chapter Five which will be taken up here in an attempt to find a comprehensive methodological approach in dealing with abortion within the African perspectives.

Perhaps most forcefully demonstrated was the fact that abortion is an African lived reality and that it is not an 'imported' problem from the West. However loud the church may condemn it and however militant traditionalist may oppose it, abortion has become a fact of African life. Short of living in an ideal society we have to deal with it in ways that do not seek to diminish the quality of life of those who for one reason or the other find themselves having to seek it. A feeling of alienation was detected among those who intellectually may approve abortion but who still find themselves emotionally opposing it. This internal dissonance was noted, for example, among the interviewees in terms of the obvious inconsistencies in responding to the same question when phrased differently. The major conclusion reached in Chapter Five was that one's moral-ethical decision making is less

informed by one's religio-cultural position, as it is by one's socio-economic prevailing needs. However, this disjuncture between one's religio-cultural orientation and socio-economic realities creates in the person a moral unease which robs the person of an intended better quality of life. The challenge is to draw resources which people can utilize towards achieving a comprehensive well-being not only as individuals but as persons-in-community. In this regard it is important that concerns that prompted this study in the first place are restated at this juncture. What was conceived as 'subordinate thematic concerns' of this study were formulated under four categories:

Firstly, that of finding an identifiable African spiritual ethic whose elementary characteristics may inform the nature of our moral decision-making on the abortion debate. Secondly, that of finding ethics of African community and its spirituality that may empower African women in their quest for self-fulfilment, equality and human dignity. Thirdly, whether in fact an African inquiry and reflection can produce a viable contribution in regard to abortion within the broader context of democracy and human rights. And lastly, whether it is possible to hold together ethics of Judeo-Christian tradition and African spirituality in a dynamic interplay in addressing the issue of abortion. These are the issues that will now receive attention here taking aboard issues which have already emerged both in Chapter Four and Five.

I begin with an examination of the notion of *impilo* which informs my thesis under what I have called the *pro-impilo* theological discourse on abortion. Under the discussion of *pro-impilo* other critical concepts will be introduced, such as *ubuntu*, *impilo* and *ubomi-mpilo* which are key concepts in the alternative paradigm of dealing with abortion which I am attempting to articulate.

6.2 The notion of *pro-impilo*

The term *pro-impilo* as conceived within this study means playing an advocacy role for the defence and promotion of a comprehensive well-being. A background information to the conceptualization of this term was given in the introductory pages of the study. I now wish to embark on an elucidation of this concept and in

so doing go beyond the rudimentary comments of the word *impilo* as given by Mandew in his brief article. In embarking on that task I want to begin by arguing that any serious discussion of *pro-impilo* as conceived within this study cannot be achieved by a mere analysis of the term in isolation to other equally relevant concepts which make the term possible in the first place. Such a discussion would only succeed in impoverishing the discussion than contributing to a holistic discussion of the concept.

I want to suggest that in order to appreciate the concept of *pro-impilo*, firstly, an attempt has to be made towards an analysis of the word *ubuntu*. This is because the two words are fundamentally linked with each other. According to an African understanding one cannot begin to experience *impilo* without *ubuntu*. Related to these two words is another one *ubomi* (life) which serves as a chain upon which *ubuntu* and *impilo* are linked. Lastly, I utilize the term 'spirituality' as perceived within African understanding and usage. I want to suggest as I will soon show that these four concepts: *ubuntu*, *impilo*, *ubomi* and (African) spirituality constitute what can properly be referred to as a comprehensive well-being. It is upon these concepts that an African contribution to the conceptualization of abortion has to be conceived. I begin with the conceptualization of *ubuntu* and *impilo* and will demonstrate how these terms directly connect to *pro-impilo* abortion debate as conceived within this study.

6.2.1 *Ubuntu-fication and impilo-fication*

The African concept of *ubuntu* has recently been publicly branded and popularised, if nothing less, at least for political correctness and for commercialisation. In theological discourses the term has been domesticated and has assumed a prominent place along side other theological jargon. For example, Botman (1994:32), quotes Malusi Mpumlwana who regards *ubuntu* as the African equivalent to the biblical notion of 'the image of God', while Albert Nolan equated the term to 'the divine calling to personhood'. Botman (1994:32) himself acknowledges the term as "an emergent South African metaphor for nation, community, personhood and sociality."

It is true that the concept of *ubuntu* is a comprehensive term which embraces all the good qualities associated with it such as those mentioned above. Unfortunately, one has reason to suspect that the concept is being overlaid with ideological masks under the pretence of recovering African resources in engaging the West in its epistemological rationalising of reality. For example, those who have attempted to interrogate and explain the term have relied heavily on semantics in recovering its meaning. Much as etymological deciphering of the word is useful, it contributes little if anything to the practical application of it as understood and used among African traditional communities. In such explanations of the word, one finds a kind of nostalgia foreign to those who actually experienced *ubuntu* in action and not as a concept being recovered from the archaeological extraction.

What I find disturbingly missing in the discussion of the concept is a serious attempt to utilize the term in its pragmatic realism within the socio-economic and cultural context of the African people themselves. While the term itself has been enriched immensely, the same cannot be said of its original *owners*, the African traditional communities. On the contrary, the African traditional owners of the term have in the process been significantly impoverished. In this sense the word has become an ideological tool which only has an instrumental value. In other words, the term has found itself a place within the respected academic regalia. On the contrary, those whom Nolan properly describes as custodians of the term "in all African countries south of the Sahara" (1988:80), have not been part of that academic community. This is what I mean when I say that the original owners of the word have in the process been shortchanged.

I take it as a grave omission that those protagonists who have sought to give an exposition of and meaning to the term '*ubuntu*', have not equally recognized that the concept of '*ubuntu*' has an identical twin in the name of *impilo*. My contention is that there is no *ubuntu-fication* (Botman, 1994:32) without *impilo-fication*. The often recited African adage that 'a person is a person through other persons' is not complete unless and until the process incorporates *impilo*. When African traditional wisdom formulated this idiom, to their recipients these words echoed a host of other related qualities which made the idiom possible in the first place. For

example: encouraging cooperation and a sense of community among people, living in harmony with neighbours, giving hospitality to strangers, respect of authority, demonstrating loyalty among your people and the veneration of the ancestors. It is this myriad of values that gives content to the concept of *ubuntu*.

It has to be noted that the concept of *ubuntu* cannot simply be imported in a 'colour blind' fashion uprooting it from its 'Africanness'. The concept has a direct application to the human-life situation of the people. Our white counter-parts, who have readily embraced the concept, may think again if it is brought to their attention that *ubuntu*, contrary to popular view, is primarily not a magnanimous word that cherishes altruism or embraces humanism. First and foremost in its actual expression, *ubuntu* is shown among those who are members of one's family, one's relatives, one's ethnic group and strangers - all these in that descending order! What is important is that an individual alone cannot be fully human in the absence of other human beings. What is being expressed here is not a biological fact, but more the stating of an existential and ontological reality that an individual is a person-in-community.

What then are the implications of *ubuntu* and *impilo* within the discussion on *pro-impilo* contribution to abortion discussion? It is my submission that how a pregnant woman deals with an unwanted pregnancy will have to be decided in terms that do not compromise the physical and mental life of the woman. Such a position would be in line with what has been said here about *ubuntu-fication* and *impilo-fication*. That is, *impilo* of the woman (i.e. the woman's health) which already participates in the process of *ubuntu-fication* (and *seriti* discussed earlier) must be enhanced and not hindered to the point of total destruction due to pregnancy. This is all the more necessary if the woman already has children she is taking care of. Their survival and growth to full humanity depend on her.

Such an approach to abortion proposed above is consistent with advocating the comprehensive well-being of the woman's life which encompasses other lives relevant in the equation in this case her children. In this regard a woman's socio-economic standing finds justification not over against her religio-cultural orientation

as this appeared to be the case in Chapter Five of data analysis. On the contrary, here a woman's religio-cultural orientation finds validation and enhancement as conceived within these concepts of *ubuntu* and *impilo*. A rejoinder may insist about the 'conceptus' life which, it could be argued, must be part of the equation. This is a legitimate concern to which I respond in the next sub-section. A discussion of that here would distract the focus of my attention which for now is on the woman.

Secondly, such a decision must not estrange the woman from her 'significant others', which could include, amongst others, one's family member/s, a guardian, a spouse, and so forth. A point of legitimate concern here may be that: What happens to the woman if her 'significant other/s' refuse her abortion? Indeed, should the woman take the 'risk' at all in the first place knowing fully well the repercussions likely to follow, like, rejection and stigmatisation both from her partner and the in-laws? These are legitimate concerns, especially in the light of gender construction and related issues of procreation and fertility discussed in Chapter Four, and man's dominating position in the whole equation.

Without dismissing the above concerns, let me point out that this second principle honours what was said about person-in-community in spite of its lack of equality in relation to woman. This is necessary for the purposes of one's validation which then removes cultural hang-ups, spiritual/religious feelings of guilt or feelings of a heavy conscience with harbouring what one may feel to be an uncomfortable secret associated with the decision to abort. While consultation with one's 'significant others' may carry 'risks' in the short term, the long term benefits may outweigh the risks involved. Also, one's significant others do not need to include all significant others. One's validation may be selectively sought. What is important is sharing of the problem. In the words of the Scriptures: "Bear ye one another's burdens and in so doing you fulfil the law of Christ" (Galatians 3:6). This is why the element of counselling both pre and post-counselling have been a point of major concern through out this study. I want to argue that *ihlebo labafazi* provided a significant resource and recourse for women who faced unwanted pregnancies and this point has been argued in Chapter Five.

I now proceed to consider other equally important aspects of the African way of viewing *impilo* in its comprehensive perspective. This will offer us other vantage points towards the *pro-impilo* discourse to the abortion discussion. In this regard I now proceed to examine the concept of *ubomi* as it relates to *impilo*, hence the next sub-section is called *ubomi-mpilo*.

6.2.2 *Ubomi-mpilo*

In addition to the word *ubuntu* is another one, *ubomi* (life). Indeed, *ubomi* precedes *ubuntu*, for there can be no *ubuntu* without *ubomi*. It is worth noting that, according to the Xhosa understanding, *ubomi* is not something we are given completely and finally at birth, or at conception. *Ubomi* is something towards which we aspire and struggle. It is analogous to what Jesus called an "abundance of life" (John 10:10). It is interesting to note that in that passage in John, Jesus shows full awareness that abundance of life is constantly being threatened by what Jesus referred to as a 'thief' who comes to "steal, destroy and murder". In other words, the abundance of life, or comprehensive well-being can be compromised or even denied where *impilo* is threatened or violated. To underscore this point, one sometimes hears people using the expression, *ubomi ngumzamo*, meaning, life is a struggle. Also when people share greetings the other one may say: *sikhona kodwa impilo ayikho*, literally meaning: we are alive but we lack well-being.

In other words, what is being conveyed here is that life as mere existence does not constitute the comprehensive well-being of a person. When the respondent says this, she or he might be in good physical health, but the lack of well-being of one's family negatively affects one's life as well. What constitutes a comprehensive well-being is not the individual person but the positive constellation of one's relationships in family and community. It is in this context that the two concepts of *ubuntu* and *impilo* have to be conceived. *Ubomi* is what we begin with. *Ubuntu* is how we live *ubomi*. *Impilo* is that vital energizing force which sustains *ubomi*. This energizing force of *impilo* can only be maximised through *ubuntu* (i.e. a life lived in relation to and in consideration of other people). *Ubomi-mpilo*, which is a life lived in comprehensive well-being, is constantly under threat by destructive forces which seek to thwart and disturb harmonious relationships between people

in their relationships. In this regard the concept of *seriti* both in its *visionary* and *practical* aspects as discussed previously needs to be born in mind within this discussion as will shortly be shown.

The comprehension of *ubomi* can aid in the elucidation of the pro-impilo discourse on abortion. *Ubomi* must, once again, be preserved for the woman if a need for abortion becomes necessary. The priority is the life of the woman. The conceptus, in terms of the scenario outlined above, although it has *ubomi*, it cannot be said to participate in the drama of *ubuntu-fication* and, strictly speaking, cannot be considered to have *ubomi-mpilo*. What the conceptus lacks is the *seriti* that vital force which enables one to actively participate both in the drama of *ubuntu-fication* and *ubomi-mpilo*.

It is within this perspective that Xhosa traditional midwives did infanticide under the circumstances already discussed in Chapter Five. In this regard, the Xhosa concept of *umntu* and *impilo* compares closely to that of the Jews discussed in Chapter Four. There mention was made that the Talmud rules that a new born infant is not considered viable (*bar kayma*) until it has lived 30 days. Before that it is considered a stillborn (*nefel*) because its life is merely a continuation of the vitality of its mother that still remains with him/her. "At this stage the fetus is only a 'separate body' and not 'an independent life'" (Biale 1984:221).

However, there is a problem here. According to the African traditional belief system, the ancestors give fertility to the couple to perpetuate the name of the family. Belief has it that ancestors are the bestowers and sustainers of life. Staples has remarked that,

Traditional benefits bestowed by ancestors include 'offspring ... fertility in both fields and live stock, rain good health, protection from physical and mystical danger, and the curing of illness (cited in Wanamaker 1997:289).

Accordingly, by terminating pregnancy one may be showing 'un-thankfulness' to the ancestors. Worse still, one can be seen as interfering with ancestor functions which may provoke their wrath, *ingqumbo yeminyanya*. Consequently, one may

receive punishment from them (i.e. *abethwe ngokulandelwa ngamashwa/aqalekiswe*).

On what basis then can a woman procure abortion and not offend one's ancestors? Firstly, this concern would not arise among categories of unwanted pregnancies which concern: minors, insane persons, rape, incest, outside of wedlock and infidelity. This is because by their very nature these types of pregnancies violate the very basis of the moral fibre of the society. Indeed, in such cases ancestors themselves may take the initiative to expel the 'intruder' and thus not allow the woman to carry such pregnancy to full term. But even if allowed and the child is born, this may only indicate a delayed punishment rather than a permanent absolution.

If, in later life, something should befall the child or his/her conduct tortures the family or community, people will always go back to the way the child was conceived in the first place. This can be regarded as a 'pay back time' instigated by the ancestors. A certain ritual or ceremony may have to be performed to placate the wrath of the ancestors and thus integrate the individuals concerned into the family, community and the whole ancestry. The difficulty would only arise where a married woman desires to terminate a pregnancy which, in this case, may validly be considered to be a 'gift' from the ancestors. This is why within the African traditional communities, socio-economic reasons would be 'invalid' within marriage to mitigate for abortion. The emotional, psychological and spiritual trauma and feelings of guilt would be more astute to the individual concerned.

However, the situation is not entirely a hopeless one for the woman. To begin with, the burden to raise a child primarily lies on the man (i.e. the woman's husband) as the supporter and provider of his family. After all, it is *his* family lineage that is being propagated. If the man and extended members of his family cannot carry that responsibility, it is my opinion that the woman is exonerated within cultural boundaries of her action should she decide to terminate the pregnancy. She is not the one who is on 'trial' here, but her husband. If he proves to be irresponsible or unable for some reason not to discharge his responsibilities, the woman is not

accountable. She would, therefore, be exonerated from *ingqumbo yeminyanya* of subsequent punishment that would otherwise follow her. I now proceed to discuss the third term equally critical in the *pro-impilo* discourse, namely, African spirituality.

6.2.3 African spirituality

African spirituality constitutes a crucible around which a discussion on abortion within the *pro-impilo* discourse emanates and evolves. What has been said thus far about *ubuntufication*, *impilofication* and *ubomi-mpilo* constitute a holistic conceptualization of what is meant by African spirituality. Shorter (1978:4-5) observes that African spirituality is, "... the mode of living, the essential disposition, ... In other words it is not only a way of looking at human life, but a way of living it."

African traditional societies have been credited for being holistic in their understanding of spirituality. While Western theology on the main has tended to differentiate between spirit and body African spirituality knows no such distinction. African spirituality is neither dualistic nor escapist. At the centre of its perception of the 'spirit' is a human experience at the deepest level of reality. It stresses human relationships between persons, groups, the natural and supernatural realm.⁴⁰

Pato (1994:54) has stressed the point even more stronger when he wrote,

In African traditional religion there is no separate community of religious people, because everyone who participates in the life of the community automatically participates also in its religion. There is no separate day of worship because the whole rhythm of daily life is a continuous liturgy that permeates such commonplace things such as eating, drinking, ploughing, working, etc.

40. Louise Kretzschmar (1996:63) could easily have been describing African spirituality when she wrote: "In contrast to the quietism, individuality and impersonalism of our age, a holistic spirituality stresses community and social concern."

Desmond Tutu, (cited in Pato, 1994:54), has described African spirituality this way, "The African world view rejects popular dichotomies between the sacred and the secular, the material and spiritual. All life is religious, all life is sacred, all life is of a piece."

What then are the implications for abortion in terms of African spirituality? To begin with I am a bit uneasy accepting such a profuse and grandiose positive estimate of African spirituality as the one given above, by both Pato and Tutu. To talk of African spirituality in those terms makes the subject almost superfluous, if not amorphous. There is a sense in which, if everything is 'spiritual' it makes it unintelligible to talk about it. This, for example, comes closer to our talk about 'God'. Because Christians say God is everywhere, both immanent, transcendent, and so forth, it becomes a philosophical quagmire to talk about God. In the end we can only believe in God's existence. A similar argument applies if we begin to talk about African spirituality in this way.

Many of us would agree that while God is love and God is everywhere, however, not every manifestation of love is God, nor is God's presence manifest everywhere. The same analogy applies in our discussion of African spirituality. We may agree (and I do agree) that African spirituality does not differentiate between that which is material and that which is spirit. But it is quite another thing then to make a claim that every activity of African people constitutes spirituality. The point becomes an over-simplification of a more complex reality.

One critical point I feel is often missed in a discussion on African spirituality is the two spheres of perceiving reality, the visible realm and the invisible realm. Wanamaker (1997:286) has observed, "An indivisible unity and continuity is thought to exist between these two worlds, and plays a crucial role in African people's perceptions of reality." It is these two spheres of existence which form the *nexus* or *loci* of African spirituality. While the two are in continuum they cannot be said to be the same.

African spirituality borders on these two worlds. It holds like a hanging door on hinges opening back and forth. The visible world is inhabited by the *presently* living, while the invisible realm is inhabited by the *living* dead. Ray rightfully cautions us that the living dead must not be perceived in terms of Christian categories of what happens after death, "What is important here is not the *afterlife* itself but the way in which the dead continue to be involved in *this life* among the living" (cited in Wanamaker 1997:140).

It is, therefore, those actions which are initiated by or which receive validation from the *spiritual* world of the ancestors which can rightfully be said to constitute *African spirituality*.

Critical among such activities are those which are carried out as a result of relations forged in the area of covenants. There are many of such covenants. Mbiti (1997:166) in a different but not unrelated discussion, includes: Blood brotherhood and blood sisterhood covenants, adoption covenants, land covenants and marriage covenants. As will be noted, in-between these will be numerous other activities in which people engage.

I would distinguish between what I refer to as intensely 'high spiritual' activities and 'low spiritual' activities. High spiritual activities would include those occurring under the areas of covenants. Here, I would also add activities occurring through rites of passage, like: *imbeleko*, *umeluko*, *intonjane*, *umngcwabo* and similar others. *Imbeleko* is a family occasion whereby a goat is slaughtered with the expressed intention of accepting the new born into the family and presenting the infant to the ancestors to be under their protection. *Umeluko* refers to a ceremony of circumcision which signals a transition from boyhood to manhood. *Intenjane* is a girl who is undergoing *ukuthonjiswa* a reference to a processes of seclusion which marks the girl's first menstruation thus reaching puberty. *Umngcwabo* is a burial service which is observed as solemn ceremony. What is common in all these occasions is the shedding of blood, the brewing of traditional beer, the assembling of a clan and the invoking of the ancestors. It is these elements put together which transform these events into intensive high spiritual activities.

There are other activities which, although lacking in some of the elements cited above, are reportedly subject to interventions by the ancestors, and they are thus imbued with moments of intense spirituality. Here I have in mind various cultural gatherings and events, such as *umtshotsho*, *intlombe*, *um-ngqungqo*, *um-dudo* and so forth. *Umtshotsho* is a dance gathering of bigger boys of adolescent age (with their age-grade girls). *Intlombe* is a dance gathering of initiated young men who have been through circumcision (with their age-set girl). *Umngqungqo* refers to an exclusive dance gathering of girls who have been to their first 'season' (from about the age of 14 and above). *Umdudo* is a men's dance gathering, usually elderly men (accompanied by their women).

It is interesting, for example, to note that the 'visions' of the prophet u-Ntsikana came upon him whilst attending *um-dudo*. Such a gathering by its definition would not require a shedding of blood, invocation of the ancestors and the gathering of the clan members. However, there would be African beer, the gathering of senior members of the community and an intense expression of emotions through song and dance. It is these factors which although other elements were lacking compensated for the 'visitation' of the ancestors to Ntsikana. These activities among senior citizens of the community evoke deep feelings of peoples' corporate and communal life in times of celebration of life and moments of sadness, such as, funerals (*umngcwabo*).

Low spiritual activities would count for all other activities not falling under the catalogue of covenants and rites of passage. In other words, cultural gatherings and events such as those cited above would fall under low spirituality because in totality they lack elements like shedding of blood, gathering of a clan and intentional invocation of the ancestors. In other words not all actions which receive social sanction can be said to constitute African spirituality. Other actions, while socially endorsed and sanctioned, do not necessarily fall under what could be considered African spirituality *per se*. These categorisations are necessary for clarity, especially for the purposes of our discussion.

Implications for the *pro-impilo* discourse on abortion can now be suggested. For example, sexual intimacy which occurs within marriage would be considered an intensely high spiritual activity because it receives validation from the invisible world of the ancestors. The very process of seeking a wife which starts from *ukukhonga* (i.e. marriage negotiations) and culminates into *umshato* (i.e. wedding ceremony) is overlaid with the interface between the visible and the invisible realms, the living and the departed.

When the woman finally leaves her home a beast is slaughtered (*kuxhelwa inkomo yokum-khupha*) reporting to her ancestors that the woman is now leaving her family and will be joining another home and thus another ancestry line. A welcome beast is slaughtered at the woman's new family with the specific intention of uniting *makoti* (i.e. new wife) to her new line of ancestry. In the kraal the father of the girl will speak words (*ukuthebeleza*, in Zulu) to the effect that: He firstly traces the lineage of the woman introducing it to her new ancestry, describes the character of the woman -what kind of a person she is, and lastly implores the ancestors from the line of the in-laws to look kindly to his daughter and give her fertility.

This is why, for a woman to procure abortion under these circumstances, is comparably more difficult. Again, when a child is born the ceremony of *imbeleko* again reinforces this linkage between the living and the invisible world of the ancestors. If a married woman seeks abortion it would be considered under extreme circumstances. In this respect, African culture would be most unyielding as far as economic reasons for seeking abortion would be concerned. The woman would have to show that her husband (with his extended family) is unable to meet his obligations of fending for his offspring.

However, for reasons of saving the woman's life, no legitimate objections can be put to deny the woman abortion. This is because, belief has it that, if it was the intention of the ancestors to grant progeny to the wife, ancestors have a way of intervening thus allowing the process of pregnancy to take its due course. Indeed, there is no lack of stories told about children whose births were 'miraculous'. Such

births are regarded as direct interventions of the ancestors thus reinforcing the belief that ancestors contribute very directly to the whole process of fertility.

All other sexual activities transpiring out of marriage would be considered outside of high spiritual category. And, therefore, while that life of the conceptus is still sacred and valued, its termination would not be strenuously objectionable where such a need arises. It could be that the woman may still need to undergo a certain ritual of cleansing to thwart off future mishap (i.e. *ukuhlamba isithunzi/isimnyama*). Such rituals are common, for example, even where a woman had a spontaneous abortion (i.e. *ukuphuma kwesisu*).

6.3 The church, human rights and African culture

Finally, I must now justify how what has been said so far concerning grounds for procuring abortion, reconcile with the Christian faith and the democratic values. I wish to address anticipated concerns in terms of how I have sought to present the *pro-impilo* discourse on the issue of abortion, using categories of African anthropology and its perception of reality in general.

6.3.1 The church and democratic values

I start this section by introducing the work of De Gruchy (1997) from which I draw some insights. De Gruchy in his paper discusses the relationship between the church and the democratic system of government. He introduces his article by posing a question: "How do we affirm democratic values and goals without selling out to a secular ideology in which Christian faith inevitable becomes privatised?" (1997:323). To answer his own question, De Gruchy (1997:323) begins by noting that the nature of the relationship between Christianity and democracy although a historic one yet it has been characterised by ambivalence, ambiguity and even hostility. "Christians have by no means always regarded democracy as the best form of government. In fact, the contrary has more often been true."

The observations made by De Gruchy should make some Christians who, today, readily embrace democratic values moderate in their enthusiasm to condemn

African ways of ordering their lives. This is specially so when in the church the visibility of democratic processes leave a lot to be desired. De Gruchy, however, notes that certain fundamental impulses within democracy may be traced historically from the ancient Hebrew prophets and Western Christendom. Here reference is on issues of justice, peace, human dignity and so forth. He writes, in an analogous manner that these two systems, "provided the womb within which modern democracy gestated" (1997:324).

One wonders if the same could be said of our churches today. One would be proud to be associated with an institution which has first cleansed itself. Unfortunately this does not seem to be the case. It is crucial that the Church takes seriously the challenge put forward by Hovland (1997:396) that "in our situation in South Africa, the most urgent task is to bring forth a broad consensus on human rights, and this failure is reflected in the way the churches are handling this burning issue." Hovland (1997:403) continues to observe that "The failure is deep-rooted, because it originates in the theological problems of a Christian anthropology." I have my suspicions whether the church will respond to Hovland's call. My scepticism is founded on the manner in which the church hitherto has responded to the old but still burning challenge of making the gospel message relevant to its African recipients. To what extent and at what pace has the church responded to the challenge of making the gospel relevant to and speak to their needs and experiences?

De Gruchy identifies four trajectories within Christian tradition which, in his assessment, have made significant contributions to the development of democratic theory and praxis. He labels the first trajectory as *Christian personalism* or *personalist* trajectory. This democratic system had as its key political notions, subsidiarity and the common good, developed on a Christian basis. Writes De Gruchy (1997:324) "Though democratic in its vision, it is a trajectory which rejects the notion of a society made up of atomistic individuals seeking their own self interest, affirming human solidarity and participation in the life of an organic society.

De Gruchy (1997:324) describes the second trajectory as *covenantal* deriving its characteristic from the Reformed or Calvinistic tradition. "This trajectory corresponds with the secular doctrine of the social contract, yet unlike the social contract, its binding force is not just a sense of obligation , but a commitment to others within the body politic under the authority of God."

The third trajectory is the *liberal* which affirms the dignity of the individual , human rights, the freedom of consciences, separation of church and state and religious toleration. "Liberal Christians have insisted on the God-given value of the individual, and the rights of the individual dissent over against both the will of the majority and the power of the state." (1997:342).

The fourth and last trajectory De Gruchy (1997:324) qualifies as having been "variously embodied within the broad Christian Socialist tradition, and finds contemporary expression in various forms of liberal theology today." Three key concerns of this trajectory are: human solidarity, participation in the democratic process and economic justice.

From the above outline one can see that the concept of democracy far from being an abstract ideal, at least in its actual expression is strongly dictated by the socio-economic and religio-cultural dynamics of its subjects. It is no mere accident of history, for example, that Latin American and African countries have advocated a particular kind of democracy versus North America. Any form of democracy implemented has to take seriously where people *are* in terms of their immediate needs as informed by their own history and general level of development.

The point has often been made that the gospel came to Africa covered in Western idioms of expression and perception of reality. What was assumed to be theology was often an ideology which either by default or design promoted Western worldview and thought patterns. Needless to say that often these Western categories of conversing about reality did not always strike resonance among the African people. Indeed, such a preaching was neither true to the gospel nor good for its recipients.

Conversion to Christianity does not mean that the people shed their world view traditional religiosity and go naked into their new religion. They take their world view, their culture, and their spiritual needs with them into Christianity (Mbiti 1997:163).

What I have sought to demonstrate first of all in this chapter is that recovering the socio-economic and cultural context of the concept of *ubuntu* is critical towards appropriating the concept of *pro-impilo* in the termination of pregnancy discussion. Secondly, I have attempted to recover other equally critical concepts, such as, *ubomi* and African *spirituality* to offer a comprehensive understanding of African cosmology and what this might mean for the abortion debate.

In my estimation, the concept of *ubuntu* and *impilo* properly applied can sustain both the fundamental values of the Christian faith and the human rights of women to exercise their choices as persons-in-community. The added democratic element to the traditional practices serves as a corrective measure to the traditionally biased nature of African community towards favouring the male gender. I have done this fully aware that the Christian community in South Africa is not yet reconciled within itself as to how it should respond to the challenge of a democratic and secular state and with a culture of human rights.

The suspicion by the Christian body of democracy, especially within the African church, is partly based on the perception of viewing human rights as part of Western ideology. To a certain extent democracy as a concept is indeed an ideology. It is an ideology because it constitutes a form of socially constructed reality informed by a certain way of ordering the world. This is not to deny that all nation groups, Africans not excluded, cherish one form of ideology or another. However, ideology is always underpinned with power so that where ideologies compete for space and recognition ideologies of the powerful emerge as normative and hegemonic. Historical hindsight informs African people that the dominant cultures of the West have imposed their ideologies on the 'conquered' cultures of the people of Africa. This is in as much as Christianity was conveyed to Africa using as a vehicle this dominant culture to propagate a dominant religion to subdue

if not totally 'conquer' the supposedly inferior (and erroneous) African traditional religion.

Jean and John Comaroff (1991) have argued in great detail to show that the early stages of European missionary work was marked by "the colonizing thrust" which sought "to cast the 'natives' as inverted images of themselves" (1991:309). However, these authors observe that the meeting of these two worlds involved "a complex interplay of power in both its agentive and its nonagentive modes - power exercised in purposive acts of the colonizer and power embedded silently in the diverse forms of the colonizing culture." It is this complexity of the meeting of the two systems of thought which has resulted in neither culture being able to obliterate the other. This is why bold initiatives are today called for that will seek to accommodate both the values of African traditional communities on the one hand, and the new values brought about by Western European culture of human rights on the other.

6.3.2 Human life situation versus ideology

De Gruchy (1997:326) has made a helpful distinction between what he calls "democracy as a *vision* of what society should become, and democracy as a *system* of government which seeks to enable the realisation of that vision within particular contexts." The critique of the church made above can be equally levelled in relation to the Western concept of human rights. It is in the light of this historical reality that the true human life-situation of the African people must be made to contend with both political and religious Western ideologies. This human life-situation of the African people shows itself primarily in its organisational structure in terms of the socio-economic and religio-cultural arrangements. For the purposes of my discussion this human life-situation has been expressed in terms of *ubuntu-fication*, *impilo-fication*, *ubomi-mpilo* and African *spirituality*.

Unless my theological understanding and political insights are fundamentally flawed, I take it that one of the key concerns of the Christian faith and democratic values is to improve the quality of life of the people. Beginning with the Old Testament prophets up to the earthly ministry of Jesus the persistent motif is

justice for the poor, defense of the widower and protection of the weak. Biblical evidence seems to suggest that the primary theological motif is *human* and not in an abstract sense. Themes of *tsedeqah* (justice) and *shalom* (peace) are given practical significance.

In his definition of a democratic vision De Gruchy (1997:326) writes,

By democratic vision I refer to that hope for a society in which all people are truly equal and yet where difference is respected; a society in which all people are truly free, yet where social responsibility rather than individual self-interest prevails; and a society which is truly just, and therefore one in which the vast gulf between rich and poor has been overcome.

The problem though is that there are differing ideological variants about democracy, like, the liberal and the social as indicated between the third and fourth trajectories outlined above. It would seem that our present constitution leans more to the Western liberal democracy. The general African public though seems to be looking for social democracy as dictated by socio-economic historical imbalances. In this regard they would like to see a government whose priority it is to address issues of economic justice, participation in the democratic processes and encouraging solidarity in common projects.

Schilling's (1971:62) contribution in this debate is critical. He makes a distinction between what he calls a negative freedom *from* constraints and a positive freedom *for* constructive endeavour which is mutually supportive participation and cooperative achievement. He observes that for a majority of people freedom *for* is what they deeply need.

One of the serious problems right now is that many disadvantaged people do not have access to such participatory experience in the world. What they lack is not independence, but interaction, cooperative endeavour, interdependence, ... The solution we should seek is not to extricate the individual from the system, but to make him truly part of it.

I do not believe that democracy as a form of government is a point of dispute. I would agree with De Gruchy (1997:326-327) that:

Contemporary struggles for democracy and the theoretical debates they have evoked, particularly with regards to gender, culture, and economic issues, have made it necessary for us to go beyond the arid confirms of the debate between liberalism and socialism. They have also indicated the need for democracy to be contextually embodied and developed, ... The democratic struggle is not simply a matter of extending liberal Western democracy to places where this does not exist; nor can democracy flourish today and serve the cause of justice , equality and freedom if it remains encrusted in past expressions, even though it will embody many of the same principles.

I want to believe that human rights culture embodied within social democracy envisages a society most African people long to realise. I want to believe that the African value system, the Christian message and human rights with an emphasis on social democracy all desire that people live in an environment that is conducive to a realization of *ubomi-mpilo*, a life lived in comprehensive well-being. Also, as I have sought to show, we can conclude that Western ideology as projected within hard liberal democracy cannot succeed in making African masses uncritically gullible to their ways of thinking and speaking about reality. But all these forms of seeing and speaking about human life situation do not necessarily exclude each other. A constructive discussion on abortion has to contend with all these perceptions of reality.

6.3.3 Survival-in-context versus universalism

Lastly, let me address one final concern which has to do with the mark of the church as a universal body whose theology must reflect that ecumenism. No doubt the church prides itself for its universal character. This conceptualization of the church as a universal entity has propelled theologians to construct what traditionally was believed to be a universal theology reflecting orthodoxy.

However, today, it is acknowledged that, as Kan Baoping (1997:84) has put it,

In the whole history of theology there has never been, nor can there ever be, a so-called 'normative theology', which could be used at all

times and under all circumstances to effectively guide, ... Christians' spiritual life and practice of faith.

The truthfulness of the above statement arises out the fact that different contexts where theological enterprise takes place inform what issues are put on the agenda. Different contexts further dictate how the debate is constituted and what conclusions are reached. Any theology worth its name must reflect, to use Buthelezi's (1978:69) phraseology "the throbbings of the life situation of in which people find themselves." Defending this position Baoping (1997:85) writes,

The idea of creating an 'almighty' theology unrelated to a concrete context is sheer fantasy because theology is and of itself interrelated with context. If someone can make this fantasy a reality, the product is no longer theology, but a kind of religious ideology. The rationale for contextualizing theology deals with this problem.

My immediate commitment has been to produce a theology of abortion which rightly can be called a '*theology of survival-in-context*'. Conn (1997:92) narrates a story of a young boy who, one day after a church service, decided he had enough of church. The young boy, in what his father would later describe as 'the heartbreaking moment' noted, "the preacher is saying all the right things, but he is not saying them *to* anybody. He doesn't know where I am and it would never occur to him to ask!"

Relevance and irrelevance are the words that are used to describe the situation reflected above by the young boy. These eternal and universal principles which the Church so proudly vocalizes in sermons and releases in official statements often contribute nothing in addressing the life and death situations with which frequently confront its ordinary members. Like the heartbreaking moment in the son's bosom, many women feel that the Church is talking without listening. It is ordering without asking. It is deciding without consultation.

If the Church is serious about embracing democratic values it must start by practising them first in its own house. Thus it has been argued that,

... the most authentic support that the church can give to a democratic order of society remains that of an effective and increasingly profound praxis of communion within itself (De Gruchy, 1997:23).

But what is true of the Church is even more so of the African culture. Tradition does not seem to help women either, at least, not in the way that it is remembered and being interpreted by men. However, I hope I have shown in my argument that African traditional practices have within them some empowering elements which are often left latent.

CHAPTER SEVEN

SUMMARY AND CONCLUSION

7.1 Summary

This chapter concludes what was started as a discourse on the new abortion Act. In Chapter One issues of discussion were identified as the following; African traditional culture, Christian faith and human rights within a democratic dispensation. It is these three factors which continued to receive attention throughout this study. African women featured as main interlocutors of this work at every stage of the study. In Chapter Two a discussion was pursued on the old abortion Act and the new abortion Act. This chapter served as a background wherein the entire thesis was conceived in the first instance. In that chapter it became obvious that the old Act, in so far as it legalized abortion, benefited a very limited number of women in general, and the white middle-class women in particular.

However, the fact of the matter was and continues to be that the African practice of culture and the experience of the Christian faith did not prevent African women from seeking abortion. On the contrary, hundreds if not thousands of them sought abortion even under the most dangerous and unsanitary conditions. These resulted in many health complications for many of them, sometimes even deaths. The new abortion Act discussed came as a welcome response to these realities. The legalization of abortion needed to be met with further liberalization of procedures in the actual securing of abortion. In this regard abortion had to be fully located within women's reproductive rights.

The introduction of the new abortion Act signified a giant leap within the South African society taking into account both its political historical past and its conservative traditional African majority.

Those opposed to the new Act mostly attacked it either from religious perspectives or from an African cultural ethos (albeit as interpreted by them). It is as a result of these opposing voices that a detailed discussion was pursued both in Chapter Three and in Chapter Four in an attempt to examine both the Christian and African value system especially as far as these pronounce on human rights, value of life and what it means being human. The Judeo-Christian discussion revealed its own biases, ambiguities and even ambivalences on the whole notion of what it means to be human and whether or not the right to life and respect of life is sacrosanct.

Chapter Four provided African insights in the deliberation on what it means to be human and how traditional African communities handled the issue of unwanted pregnancies. However, in the same chapter a point was made that an irreducible distance exists between traditional African communities and contemporary African communities. In this regard the values of African traditional societies were juxtaposed along side those of Western society, for example, a discussion was made of 'human polarities' in relation to continuity *versus* change, positivism *versus* critical morality, communalism *versus* individualism, homogeneity *versus* pluralism and public *versus* private. The challenge these human polarities confront us with is to negotiate a system that accommodates them both without privileging one point of view against the other. Before attempts were made in Chapter Six to respond to that challenge, Chapter Five was introduced which provided a fieldwork experience of the issues involved in a discussion on abortion among Xhosa communities.

Chapter Five presented actual experiences of Xhosa women and their views on abortion on request. The views of Xhosa male population were also canvassed in order that a more holistic picture could be drawn. In addition male views can also help women to be more informed of what they are up against when it comes to the exercise of their reproductive rights. Chapter Six brought to a conclusion the abortion discussion as formulated within the *pro-impilo* theological discourse. This chapter offered a comprehensive reconceptualization of African estimate of what it means to be human and what in practice it means to live as a person-in-community.

Recognizing the fundamental shift between African society then and now, Chapter Six was aimed at accommodating the democratic changes in our country while not abandoning those aspects of the African culture whose revitalization can only contribute towards improving the quality of African women and benefit the nation as a whole.

In an insightful and yet provocative article Buthelezi bemoans what he calls a neglect of the '*human*' as a theological motif in the theologizing approach of the West. He notes that often in its zeal to produce an ecumenical theology of tranquillity and dogmatic polish, the church has promoted 'ideology' at the expense of reflecting "The throbbings of the life situation in which people find themselves" (1978:69). In order to address this situation Buthelezi suggests that African theologians must adopt 'a theology of restlessness'. "By this we mean a theology that does not take itself seriously as the last word since it is the product of people who are indigens of a world in process of formation". Buthelezi concludes by challenging African churches to make their own theological options (heresies, i.e. if the West so judges them). The goal of such a theology, according to him must be to offer to its people "the wholeness of life" (Buthelezi 1978:73).

Three relevant important cues towards a *pro-impilo* discourse have been gleaned from the above discussion by Buthelezi. The first one has been to adopt a position on abortion which is based not from *ideology/dogmatics* but from the *human life-situation* of a people as a theological motif. The second factor has been to adopt a position on abortion which is based on a *theology of restlessness* as defined above. I have preferred to use the term a *theology of survival-in-context* which for me communicates strongly the same point of his concern. Finally, adopting a position on abortion which is based on a theological option guided by the principle of *wholeness of life*.

It is these cues which have informed my *pro-impilo* discourse on the abortion provisions I have outlined above. These cues hold in creative dialectic the three components identified as constitutive of this study, namely: African traditional cultural patterns, the Christian faith and the democratic values of human rights.

Three African resources have been established in this study upon which to draw from in a decision on abortion. These are: *ubuntu-fication* and *impilo-fication*, *ubomi-mpilo* and African *spirituality*. These African resources were interrogated within other resources of Christian faith and democratic values of human rights. It has been argued that in our discussion of abortion one must contend with the past of the people. In a determination on abortion one has to consider the past which has strongly shaped the present. Next was the principle of universalism *versus* survival in context. Equally critical is our present which is the lived world of African women's experiences in terms of their socio-economic position. A decision on abortion then has to be taken on the evaluation of the past, the conditions that dictate the present and the future being inspired by the client in relation to the concept of person-in community.

The African traditional culture offer the resources that will assist the individual to not be emotionally and psychologically haunted by cultural hang-ups. The church as a community-of-faith should assure the individual of being forgiven by God and accepted in the fellowship of believers. This action boosts the spirituality of the individual concerned as she now feels no longer condemned and isolated. Human rights offer the person the means to access the service but they are not the end. The end wished for by the individual can only be realised when the person feels at peace with oneself, one's significant others and one's own spirituality. None of these three systems can attain that for the individual single-handedly.

7.2 Findings of the study

Embarking on a study such as this one has revealed certain limitations as well which must still be overcome. For example, proper and comprehensive records must be kept in all health centres where abortion can be procured. The laxity of Umtata General Hospital in this regard is a great cause for concern. Such faltering will impede future analysis on lessons to be learnt for necessary improvements on both future regulation and implementation of TOP service. In this regard, South Africa can take note of the vast experience reflected in the comprehensive studies on abortion clients, for example, in the Western and

European countries. Such studies will help in the future improvement in the formulation of policy by government on health related issues.

Furthermore, there is reason to believe that rural/peri-urban women continue to be disadvantaged in terms of the actual accessibility of abortion service as their reproductive right. It is critical that data continue to be collected that contain information about backyard abortions which may continue to be procured because of the need which is not met by the formal health centres. It would be naive to think that the new Act has now nullified the need to seek abortion outside formal health centres. Women who are turned away and refused abortion for any number of reasons may still continue to seek abortion elsewhere.

Another observation must be made to the fact that abortion is not only a personal matter but is a confidential right as well. This confidentiality is strenuously guarded within South African abortion seekers. This is unlike in America, for example, where abortion clients readily speak out and make themselves visible to the public, especially when they feel their rights have been violated or compromised in one way or the other. South Africans are still very reserved to adopt this attitude. This factor is even more true to rural/peri-urban women whose rights are likely to be infringed upon more often by health workers who display a negative attitude to abortion.

As long as health personnel remain 'gatekeepers' for accessing abortion, certain sections of women, especially the less educated and financially dependent, will be discriminated against by those health professionals less in favour of women procuring abortions. Both the government and civil society at large must take care of factors such as these.

The point raised above leads us to another factor which has to do with social systems in terms of support structures. Support and referral structures are either lacking or completely unavailable to rural/peri-urban communities, unlike in urban areas. For example, minority groups such as gays and lesbians have no organizational power in these communities.

This is why even those who are homosexual are unlikely to reveal their sexual orientation in these areas and wait until they get into cities. Equally, without such structures rural/peri-urban women will continue to be disadvantaged. It is therefore critical that local support systems be established to function, among other things as liaison capacity structures with health centres. In this regard, *ihlebo labafazi* can be reconceptualized as women's local support structures which will organize women on health conscious issues, including addressing issues of unwanted pregnancies.

It has to be noted that in America, for example, several factors contributed not only in the government legislating on abortion but even more importantly on making sure that the availability of the service was readily accessible to most women who needed it. Staggenburg (1994:3) remarks that in the 1960s there was a groundswell for law reform on abortion. A coalition of women's movements and family planning activists galvanized support which led to the eventual legalization of abortion on 22 January 1973 by the Supreme Court. In addition,

The civil rights movement was a precursor that generated social activism among liberal churches and clergy and offered tactical models to numerous other movements, including abortion movements (Staggenburg 1994:18).

It is this grass-roots participation on issues other than purely political and labour related that our country lacks.

7.3 Areas for further investigation

Further studies of abortion still need to be undertaken on various other fronts. For example, a psychological analysis of abortion will have to look at professional health worker's attitudes and how these affect abortion clients' right to exercise their reproductive rights. It will have to look at the profile of women who seek abortion in terms of their religio-cultural and their general background and begin to assemble information that might be relevant in understanding emotional consequences of unwanted pregnancies and abortion refused/denied cases.

In addition it could assess the value of both pre-counselling and post-counselling in terms of helping the client cope with the decision to procure abortion or otherwise. The nature and scope of counselling itself is very important. For example, to what extent is it a 'threatening' kind of counselling intended to 'scare off' the would-be abortion client.?

A sociological analysis of abortion might focus on areas such as the racial and class related components of abortion clients. It may compare the number of abortion clients between rural/peri-urban and city/urban divides, level of education, age differences and so forth. This information would help the government in terms of prioritizing services and spreading resources. Medical analysis would cover areas such as the safety of methods used for abortion and further research on most efficient and safe methods in both abortion and effective contraceptive methods.

Ethnographic and social anthropological research of abortion conducted within a theological analysis would yield important findings in terms of how the church responds to the issue of unwanted pregnancies utilizing both its Christian heritage and cultural resources available to it. It would be useful to find out to what extent would the churches be prepared to be facilitators and enablers to abortion seekers, utilising the principles of ethics of abortion as argued here. In this regard this study is pioneering that interface between biblical hermeneutics and cultural milieu both formative of the African people. It is my hope that further studies in this regard will be undertaken that will deepen the elementary work embarked upon in this study.

7.4 Conclusion

I want to believe that the initial findings made in this study utilizing Xhosa conceptualization of *pro-impilo* have been a positive and worthwhile contribution to the strengthening of African women's position and rights in contemporary African society. At the same time I want to believe that the entrenchment of democracy with human rights can only be enhanced and legitimated by such a contribution.

Lastly, my concern has been to make the Christian faith credible and meaningful among the African people. I want to believe that the utilization of African resources such as the ones identified in this study not only resurrects African resources of humanization but equally accomplishes a critical Christian dimension which is the restoration of a community of saints.

BIBLIOGRAPHY

- Ackerman, D. *et al* (Eds) (1991). *Women hold up half the sky: Women in the church in Southern Africa*. Cluster, Pietermaritzburg.
- Alasuutari, P. (1995). *Researching culture: Qualitative method and cultural studies*: Sage Publications, London.
- Alves, R. (1984). Commentary on 'Prophet or provocateur?'. In: Evans, R.A. & Evans, A.F., 1984. *Human rights: A dialogue between the first and third worlds*. Orbis Books, Maryknoll, New York.
- An-Na'im, A. A *et al*. (Eds) (1990). *Human rights in Africa: Cross-cultural perspectives*. The Brookings Institution, Washington, DC.
- Anthias, F. *et al*. (Eds) (1995). *Sociological debates: Thinking about 'the social'*. Greenwich University Press, U.K.
- Baehr, N. (1990). *Abortion without apology: A radical history for the 1990's*. South End Press, Pamphlet No. 8, U.S.
- Bailey, A., Bam, N., Bluff, L. *et al*. (1996). Becoming a parent. In: Goosen, M. & Klugman, B. (Eds). *The South African women's health book: The women's health project*. Oxford University Press, Cape Town.
- Bakhurst, D. & Sypnowich, C. (Eds) (1995). *The social self: Inquiries in social construction*. Sage Publications, London.
- Baoping, K. (1997). On theological contextualization. In: Barr, W.R. (Ed.) *Constructive Christian theology in the worldwide church*. William B. Eerdmans Publishing Company, Grand Rapids, Michigan.
- Barth, K. (1982). In: Batchelor E. (Jr) (Ed.) *Abortion: The moral issues*.

- Batchelor, E. (Jr.) (Ed.) 1982. *Abortion: The moral issues*. The Pilgrim Press, New York.
- Beake L. *et al* (1996). Controlling our fertility. In: *The South African Women's health book: The women's health project*. Gready, M (Compiler). Oxford University Press, Cape Town.
- Beake, L., Khumbane, T., Klugman, B., Ledwaba, G., Matthee, A., Von Schirnding, Y. (1996). How health works. In: Goosen, M. & Klugman, B. (Eds). *The South African women's health book: The women's health project*. Oxford University Press, Cape Town.
- Biale, R. (1995). *Women and Jewish law: The essential texts, their history and their relevance for today*. Socken Books, New York.
- Bless, C. *et al*. (1995). *Fundamentals of social research methods: An African perspective*. (2nd ed.) Juta and Co., Ltd, Lusaka, Zambia.
- Bless, C. and Achola, P. (1988). *Fundamentals of social research methods: An African perspective*. Government Printing Department, Lusaka.
- Botman, R. (1994). Who is 'Jesus Christ as community' for us today: The quest for community: A challenge to theology in SA. *Journal of Theology for Southern Africa*. pp.30-37.
- Bureau for African Research and Documentation (1 July 1996). Untranscribed audiotape from the University of Transkei.
- Buthelezi, M. (1978). Towards indigenous theology in South Africa. In: Parratt, J. (Ed.) *A reader in African Christian theology*. SPCK, Great Britain.
- Callahan, D. (1970). *Abortion: Law, choice and morality*. Macmillan: New York.
- Chapman, G. (1977). *African Christian marriage*. Macmillan Publishing Company, New York.
- Choice of Termination of Pregnancy Act (1996).

Choice of Termination of Pregnancy Bill (1996).

Church of the Province of Southern Africa (1995). *Abortion*. A report for ongoing discussion, as a companion paper to the CPSA's report for study: The church and human sexuality. Drawn up by the Southern African Anglican Theological Commission and issued by the Synod of Bishops.

Cochrane, J. R. (1996a). *The boundaries of hegemony: Configuring public space from the margins*. University of Natal, Pietermaritzburg.

Cochrane, R.J. (1996b). *Circles of dignity: Incipient theologies and the integrity of faith in a postcolonial age*. Unpublished article, School of Theology, University of Pietermaritzburg.

Cooey, P.M. (1997). The power of transformation and the transformation of power. In: Barr, W.R. (Ed.). *Constructive Christian theology in the worldwide church*. William B. Eerdmans Publishing Company, Grand Rapids, Michigan.

Curran, C.E. (1982). Civil law and Christian morality: Abortion and the churches. In: Batchelor, E. (Jr.) (Ed.) *Abortion: The moral issues*. pp. 143-165.

Dane, F.C. (1990). *Research methods*. Brooks Publishing Company, California.

De Gruchy, J.W. (1997). Christianity and democracy: Understanding their relationship. *Scriptura: International Journal of Bible, religion and theology in Southern Africa*. 3(62), p.323-334.

Ellin, J. (1995) *Morality and the meaning of life: An introduction to ethical theory*. Fort Worth, Texas.

Evangelical Lutheran Church of Southern Africa (Natal-Transvaal) (1997). Pastoral statement on the termination of pregnancy.

Evans, R., (1984). Human rights in a global context. In: Evans, R.A. & Frazer, A.E. (1984) *Human rights: A dialogue between the first and third worlds*. Orbis Books, Maryknoll, New York.

- Fehr, W. (1968). *The account of the tribal life and customs of the Xhosa in 1807*. (From the original manuscript in German of: *The Kaffirs of the South Coast of Africa*), Cape Town.
- Felder, C.H. (Ed.) (1991). *Stony the road we tread: An African American biblical interpretation*. Augsburg Fortress, USA.
- Fletcher, J.F. (1982). Abortion as a socioethico issue. In: Batchelor, E. (Jr.) (Ed.) *Abortion: The moral issues*. The Pilgrim Press, New York: pp.139-142.
- Francome, C. (1984). *Abortion freedom: A worldwide movement*. George Allen & Unwin, London.
- Gustafson, J.M., 1982). A protestant ethical approach. In: Batchelor, E. (Jr.). *Abortion: The moral issues*. The Pilgrim Press, New York. pp.191-209.
- Hammersley, M. (1990). *Reading ethnographic research: A critical guide*. Longman, London and New York.
- Hansard (National Assembly) (Tuesday 29 October 1996)
- Hansard (Senate) (Tuesday 5 November 1996)
- Harrison, B.W. (1982). Theology of pro-choice: A feminist perspective. In: Batchelor, E. (Jr.) (Ed.) *Abortion: The moral issues*. The Pilgrim Press, New York. pp.227-242.
- Hauerwas, S. (1981). *A community of character: Toward a constructive Christian social ethic*. University of Notre Dame Press, Indiana.
- Hlengwa, M.A. (1994). Zulu cultural patterns. Paper presented in Pietermaritzburg, University of Natal, Pietermaritzburg.
- Hovland, T.H. (1997). The role of the church in a pluralist society. In: Barr, W.R. (Ed.). *Constructive Christian theology in the worldwide church*. William B. Eerdmans Publishing Company, Grand Rapids, Michigan.

- Kanyoro, M.R.A. and Robins, W.S. (Eds) (1992). *The power we celebrate: Women's stories of faith and power*. WCC Publications, Geneva.
- Khumbane, T. (1996). Women's position in society. In: *The South African Women's health book: The women's health project*. Meintjes, S. et al. (Compiler). Oxford University Press, Cape Town.
- König, A. (1994). The broken human image of God. In: De Gruchy, J. & Villavicencio, C. (Eds). *Theology and praxis (Vol. I): Doing theology in context: South African perspectives*. David Philip, Cape Town. p.102.
- Kretzschmar, K. (1996). A holistic spirituality: A prerequisite for reconstruction in South Africa. *Journal of Theology for Southern Africa*. pp.63-75.
- Larsen, J.V. (1996). KwaZulu Department of Health, Regional Obstetrics: South Eastern Zululand. Letter dated 28/7/97. (Open letter written to churches).
- Lindegger, G. (1996) Psychological effects of abortion. *Grace and Truth*, Vol. 1.
- Little, A. (1990). Human rights and western liberality. In *Human rights in Africa: Cross-cultural perspective*. Abdullahi Ahmed An-Naim & Francis Beng (Eds), The Brookings Institute, Washington DC.
- Mandew, M.D. (1995). The culture of *impilo*. Saturday Talk, *The Natal Witness*, 25 June.
- Mandew, M.D. (1997). *War, memory and salvation: The Bulhoek massacre and the construction of contextual soteriology*. Vol I School of Theology, University of Natal, Pietermaritzburg.
- Marty, M. E. (1984). *Being good and doing good*. Jansmann. A.H. (Ed). Fortress, Philadelphia.
- Massey, L.F. (1990). *The status of women in Christian churches: A contemporary theological dilemma*. University of Natal.

- Mathabane, M. (1995). *African women: Three generations*. Hamish Hamilton, London.
- Mbiti, J. (1997). God, sin, and salvation in African religion. In: Barr, W.R. (Ed.). *Constructive Christian theology in the worldwide church*. William B. Eerdmans Publishing Company, Grand Rapids, Michigan.
- Methodist Church of Southern Africa, 1995. Task committee report on Abortion from the 1995 Conference.
- Meyer, P. (1970). (Ed) *Socialization: The Approach from Social Anthropology*. Tavistock Publication, New York.
- Milingo, E. (1980). *The world in between: Christian healing and the struggle for spiritual survival*. C. Hurst and Co., London.
- Morris, D. (1994). *The human zoo*. Vintage, Great Britain.
- Murray, C. (1994). *Gender and the New South African legal order*. Juta and Co., Ltd., Cape Town.
- Mwamwenda, T.S. (1995). *Educational Psychology: An African perspective* (2nd ed.). Butterworths, Durban.
- Nicolson, R. (1984). Roman Catholicism. In: Religion and basic human rights: A comparative and philosophical discussion. Unpublished script compiled by Martin Prozesky, University of Natal, Pietermaritzburg.
- Nolan, A. (1988). *God in South Africa: The challenge of the gospel*. David Philip Publisher: Claremont, South Africa.
- Norman, K. *et al* (1994). *Handbook of qualitative research*. Thousand Oaks, California.
- Nürnberg, K. (1996). When is killing justified? A comparison between abortion, war and capital punishment. Unpublished paper, School of Theology, University of Natal, Pietermaritzburg.

- O’Gorman, K. (1996). Law and morality: Catholic perspectives. *Grace and Truth*, Vol. I.
- Oglesby, E.H. (1979). *Ethics and theology from the other side: Sounds of moral struggle*. University Press of America, USA.
- Parratt, J. (Ed.) (1987). *A reader in African Christian theology*. SPCK, Great Britain.
- Pato, L.L. (1994). Being fully human: From the perspective of African culture and spirituality. *Journal of Theology for Southern Africa*. pp.53-61.
- Paul, C.N. (1990). Participatory approaches to human rights in sub-Saharan Africa. In *Human rights in Africa: Cross-cultural perspective*. Abdullahi Ahmed An-Naim & Francis Beng (Eds), The Brookings Institute, Washington DC.
- Petchesky, R.P. (1990). *Abortion and women’s choice: The state, sexuality and reproductive freedom*. (Rev. ed). North eastern University Press, Boston.
- Peters, J. et al. (Eds) (1995). *Women’s rights human rights: International feminist perspectives*. Routledge, New York, London.
- Philips (1953). *Survey of African Marriage And Family Life*. Oxford University Press, London.
- Prozesky, M. (1984). Judaism and human rights. In: Religion and basic human rights: A comparative and philosophical discussion. Unpublished script compiled by Prozesky, M., University of Natal, Pietermaritzburg.
- Radnitzky, G. and Bouillon (Eds) (1995). *Values and social order (Vol. 1- Values and society*. Avebury, USA.
- Rich, D. (1993). *Myths of the tribe*. Prometheus Books.
- Richardson, N. (1995). Community in Christian ethics and African culture. *Scriptura: International Journal of Bible, religion and theology in Southern Africa*. 3(62), pp.373-386.

- Richardson, N. (1996). Can Christian ethics find its way, and itself, in Africa? *Journal of Theology for Southern Africa* (July). pp.37-54.
- Richardson, N. (1984). Mainstream Protestantism and human rights. In: Religion and basic human rights: A comparative and philosophical discussion. Unpublished script compiled by Martin Prozesky, University of Natal, Pietermaritzburg.
- Robinson, E. (1987). *The language of mystery*. SCM Press Ltd, London.
- Rogerson, J.W. (1985). Using the Bible in the debate about abortion. In: Channer, J.H. (Ed.) *Abortion and the sanctity of human life*. The Paternoster Press, Exeter. pp.77-92.
- Rose, G. (Fr.) (1996). The Devlin Hart debate: Who rides on the Clapham omnibus today? *Grace and Truth*, Vol. 1.
- Rosnow, R. et al. (1996). *Beginning behavioural research: A conceptual primer* (2nd ed.). Prentice-Hall, New Jersey.
- Ruether, R. (1975). *New women/new earth: Sexist ideologies and human liberation*. Seabury Press, New York.
- Schilling, H. (1973). *The new consciousness in science and religion*. SCM, London.
- Schmidtz, D. (1995). *Rational choice and moral agency*. Princeton University Press, United Kingdom.
- Schwartz, R.D. (19??). Human rights in an evolving world culture. In: *The concept of human rights in Africa*. Codestria Books Series, London.
- Setiloane, G. (1986). *African theology*. Blackshaws (Pty) Ltd, Johannesburg.
- Shelton, C.M. (1990). *Morality of the heart: A psychology of the Christian moral life*. Crossroad, New York.

Shivji, I. G. (1989). *The Concept of Human Rights In Africa*. Codesria Books Series, London.

Shorter, A. (1978). *African Christian spirituality*. Macmillan Publishing Co., New York.

Silk, J. (1989). Traditional culture and the prospect for human rights in Africa. In: *The concept of human rights in Africa*. Codestria Books Series, London.

Smith, D. (1996). *Life and morality: Contemporary medico-moral issues*. Gill and Macmillan.

Soga, J.H. (1931). *The AmaXhosa: Life and customs*. Lovedale Press, South Africa.

Wogaman, J.P. (1986). *Economics and ethics: A Christian enquiry*. SCM Press, Great Britain.

Wanamaker, C.A. (1997). Jesus the ancestor: Reading the story of Jesus from an African Christian perspective. *Scriptura: International Journal of Bible, religion and theology in Southern Africa*. 3(62), pp.281-198.

Zuma, K. (1996). In Hansard, second reading of the Choice of Termination of Pregnancy Act No.92 of 1996: National Assembly debate (Tuesday, 29 October 1996), p.4760.

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APPENDIX I

QUESTIONNAIRE TO RESIDENTS OF PHOLA PARK

1. It is a minor’s right to decide if she wants to terminate her pregnancy without consultation with her parents/guardian

AGREE	DISAGREE
-------	----------

2. Both partners must agree on the termination of an unwanted pregnancy

YES	NO
-----	----

3. It is a woman’s right to decide if she wants to terminate her pregnancy with consultation with her husband

AGREE	DISAGREE
-------	----------

4. What might be the reasons that make some women seek termination of pregnancy?

.....

5. Of the reasons you have given above, which ones are you more sympathetic with?

.....

6. What might be the reasons that make some people antagonistic to the termination of pregnancy?

.....

7. Of the reasons you have given above, which ones are you more sympathetic with?

.....

8. Under the following conditions the woman could procure abortion: Rape/incest; mother’s health; conceptus abnormalities; socio-economic reasons.

AGREE	STRONGLY AGREE	DISAGREE	STRONGLY DISAGREE
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9. Please indicate below your:

- 9.1 Marital status: Single; Married; Other;
9.2 Working/employed: Mother; father; husband; wife; both; self; other.
9.3 Age bracket: 11-15; 16-20; 21-25; 26-30; 30-35

Question 8

Men									Total: 21		
	Agree		Strongly Agree		Disagree		Strongly Disagree		No Response		
	No.	%	No.	%	No.	%	No.	%	No.	%	
rape	10	48	4	19	4	19	3	14			
incest	13	62	3	14	2	10	3	14			
mother's health	9	43	0	-	11	52	0	-	1	5	
conceptus abnormalities	5	24	1	5	15	71	0	-			
socio-economic reasons	4	19	0	-	15	71	2	10			

Women									Total: 58		
	Agree		Strongly Agree		Disagree		Strongly Disagree		No Response		
	No.	%	No.	%	No.	%	No.	%	No.	%	
rape	28	48	6	10	5	9	19	33			
incest	15	26	3	5	12	21	21	36	7	12	
mother's health	19	33	4	7	15	26	20	34			
conceptus abnormalities	16	27	3	5	30	52	9	16			
socio-economic reasons	12	21	7	12	28	48	11	19			

APPENDIX III

INTERVIEWS WITH PHOLA PARK RESIDENTS

A. INTERVIEW WITH MRS MAGASA

Mrs Magasa is one of the residences of Phola Park. She is the woman I first met during my Phola Park visits. She is a single parent of four children and two grand - children. All her four children are still schooling. Mrs Magasa is about 50 years old. She works in one of the hotels in town and is a member of the Apostolic Faith Mission.

Although the interview was not recorded verbatim (i.e. not tape recorded) , it reflects a fair presentation of how the interview progressed. This interview was conducted in Xhosa and its transcript is a personal translation to English.

Researcher 1.	Are you aware of the new Act on abortion passed by the government?
Respondent 1.	Yes I am. And for us it is a very strange and unwelcome action taken by the government.
Researcher 2.	When you say 'us' to whom are you referring?
Respondent 2.	I am referring to members of my church and the community at large because this Act is something that has been talked about quite often.
Researcher 3.	In what kind of a forum have you discussed the new Act in your church?
Respondent 3.	No we have not discussed it in any formal structure of the church. But, of course, our preachers and the pastor teach us that abortion is wrong because it is the killing of a human being.
Researcher 4.	So, you consider abortion killing of a person even if it is done at a very early stage of pregnancy?

Respondent 4.	Abortion is the killing of a human person. It does not matter how early or how late it is done. It is wrong, ... and why does the government want our children to abort? Has the government now have enough of our voting? Who will vote for it in the next coming years if it encourages our children to abort?
Researcher 5.	I don't understand. Are you saying people will not vote in the next elections because they are angry with the government for passing this new Act on abortion?
Respondent 5.	No that's not what I am referring to although yes it may be true that many people may not vote for the ANC next time because it apparently does not value life. [Mrs Magasa points me to the two little children in the house. She explains to me that these two children belong to her two daughters and are her grand-children. She informs me that she is raising these children herself as her daughters are still schooling. Then she continues to address me on the topic we are discussing.] If now we kill these children (glancing at the two little children) we are destroying the nation (<i>sibulala isizwe</i>) and who will vote the next government into power?
Researcher 6.	Mama, you told me that you have four children of your own which you are raising and that you are divorced with your husband. You are the only bread winner in this family. Don't you sometimes wish that your family was numerically smaller so that you could financially be more able to take care of it?
Respondent 6.	Yes. It is true that I am struggling to raise all these children by my self. But, I would not give these children away for any reason in the world. These are my children as well now (pointing to her two little grand-daughters) Unless my two daughters had concealed to me that they were pregnant and went behind my back to do abortion, personally, I would never have suggested or encouraged them to seek abortion.
Researcher 7.	What role could be played by the African culture on the issue of abortion and on human sexuality in general?
Respondent 7.	To be honest nothing. Our culture is gone and we may never recover it again. Our young children grow up with no experience nor knowledge of how life was before. For example, back then young people were taught to practice safe sex through <i>ukusoma</i> . In today's culture do you see our children observing that 'outdated' teaching (<i>abantwana banamhlanje bathi sisidala kubo eso</i>). To be honest, as I see it we can never recover those traditional values. They were good but they are gone!

Researcher 8.	What do you see as the role of the church in all this? Has the church any role to play in educating its membership concerning issues of human sexuality?
Respondent 8.	Very little, if anything. The church preaches one thing and people do quite the opposite of what the church is preaching. Many years ago during the '50s and the '60s pastors like Nicholas Bengu preached a gospel of salvation. As I see it, the message of salvation was a way of encouraging and preserving purity and good morals, especially among young people. At that time, cultural and traditional ways and values like <i>ukuhlolwa</i> , <i>ukusoma</i> , <i>intlani</i> and so forth were giving way and crumbling in the face of gradual secularisation and modernity gripping our society. In my view that message contributed a lot in keeping our cultural values, albeit within a Christian perspective.
Researcher 9.	You reckon that message needs to be emphasized again to reduce, among other things, the number of unwanted pregnancies by strict observance of moral values?
Respondent 9.	I don't think that would be quite possible because to day even those who claim to be 'saved' seem to live no differently than the 'unsaved', in so far as their moral character is concerned. On the other hand yes I agree, the church must continue to preach against all these sins like abortion, adultery, drunkenness and so forth. The church is doing its job. But, people have their lives to lead as informed by real life experiences which often make them to live contrary to the message of the church, sometimes against even their own consciences.
Researcher 10.	How then do we negotiate that dichotomy where faith as professed is not faith as lived? For example, what do you say to a person who knows abortion is wrong according to the teaching of his/her church but is confronted by a situation that forces the person to seek abortion?
Respondent 10.	People will disregard what the church preaches and will do abortion. This is because sometimes women have genuine reasons why they have to do abortion. But the church does not always understand. Anyway, the church is doing its job. It must continue to preach good morals. But God understands why at times women do abortion.
Researcher 11.	What kind of situations would God 'understand' why a woman had to procure abortion?

Respondent 11.	Sometime ago we had a woman here in our area who got converted to our church. Before she joined our church she run a shebeen where she sold liquor. Then in the church she hears the pastor preaching against this thing that it is a sin. But what can she do? She has children to feed and send to school. She does not have a good education to get a descent job and is divorced with her husband. It so happened that we became friends and she asked me what to do. I know and understand her situation very well. And so I advise her to continue with her business. I tell her that at the right time God will help her one way or the other, but for now she should not feel guilty. Of course, the pastor is right to preach morality-to preach against liquor and other sins. But between this woman and her God the pastor does not know what their covenant is. Because we are human beings we judge what we see but God knows the heart and God understands. It is the same with abortion.
Researcher 12.	Mama Magasa, thank you very much. I really appreciate your spending this much time with me. God bless.

B. INTERVIEW WITH MOHAMED FAMILY

Mr and Mrs Mohamed are members of Phola Park community. Mr Mohamed is an elder in the Apostolic Faith Mission. He is highly regarded in the Phola Park community. Besides his church commitments, he also runs a small informal business. He sells timber to local community members which they use to cook . Mrs Mohamed works in the hospital as a labourer. They have five three children, two girls and a boy and are all still schooling. The average years of the couples is between 50-60 years.

Although my intention at the time was to interview the wife, I had to observe protocol and address myself to the husband first. African culture and practice is insistent that the man is the ‘head’ of the family. This has implications in terms of power relations not only within the family but in the community as well. More generally it means that women are addressed through their husbands. The power dynamics of this African family system become obvious in this interview.

Firstly, I introduced myself to the husband, elder Mohamed who received me in the sitting room. The interview begins with him and includes the wife later on.

Researcher 1.	Are you aware of the new Act on abortion passed by the government?
Respondent 1.	Yes.
Researcher 2.	And what are your views about the new Act?
Respondent 2.	We are entirely against it. The Word of God is against it and we preach against it.
Researcher 3.	TOP does not encourage any pregnant woman against her will to go and do abortion. The new Act merely states that it is a woman’s right to procure abortion. Is there anything wrong with that?

Respondent 3.	You must realise that the policy of our church is that we do not oppose or support government. The Word of God is clear on this. We are told that governments are ordained by God. The government must do what it thinks ought to be done, but as a church we follow the Word of God.
Researcher 4.	Are you not then against the government when you preach against abortion in your church, as you say you do?
Respondent 4.	No, that's not the way we see it. Our position is this: We do not seek a confrontation with the government by preaching against abortion. Our teaching against abortion arises out of our reading of the Bible. The bible teaches that the spilling of the human blood is wrong, is a sin. Abortion is the spilling of human blood, an innocent blood. Also God's command is that we should be fruitful and multiply. God has set no limits how many people should be on earth. Who are we to say it is now enough? [At this point elder Mohamed calls his wife who up until now had not been part of the interview. He briefly explains why I am her and what we have been talking about (I nod my heard affirming). NB. in order to differentiate responses, from here on the wife responses appears as SHE and the husband's as HE.]
SHE 1.	Abortion is wrong because it robs the life of a human being, <i>ithatha ubomi bomntu</i> .
Researcher 5.	Would you feel the same even if pregnancy was as a result of a rape, or incest ?
HE 5.	Still, kunjalo. If the victim reports the incident immediately to the police, she would be sent to the doctor for immediate check up and cleaning. Thus there is no need to terminate pregnancy because doing that is killing.
Researcher 6.	What I had in mind was a situation where the incident is concealed and only later does it become reported, such instances are very common. Would you still object?
HE 6a.	That is no excuse! (Suddenly the wife interrupts)
SHE 2a.	Take a situation Daddy where, supposing you work away from home and only come back on month ends, or even longer than that. You know I come home late sometimes from work, and suppose one day I get raped. I fear to report this to the police for any number of reasons, not least, the fact that police stations are mostly manned by men who often are rude and unsympathetic to both rape and incest victims. Would you still judge abortion to be wrong?

HE 6b.	(Looking puzzled and thoughtful for a minute) In that case, don't even report the incident to me. Go and do that abortion but keep quite about it don't tell me.
SHE 2b.	I would have preferred that the two of us discussed that together. You are putting me in a dilemma here. If I do not tell you and later you find out will you not feel I have been cheating on you?
HE 6c.	I hear your point and yet I would find the raping of my wife very embarrassing to me personally. This is something that might negatively affect even our future sexual life.[At this point elder Mohamed excuses himself because he has to honour an appointment elsewhere. I continue my discussion with Mrs Mohamed]
Researcher 7.	The constitution allows a woman to procure abortion on demand without having to consult neither with one's husband nor one's parents in case of minors. What are your views on this?
SHE 3.	I say abortion is wrong. However, if it has to be done my feeling is that there should be mandatory consultation both between one's partner and between one's parents.
Researcher 8.	Can you think of other circumstances you would consider legitimate for a woman to seek abortion?
SHE 4.	Oh, that's difficult. I wouldn't really tell.
Researcher 9.	For example, would you approve TOP in cases of incest and where the health of the woman is in danger?
SHE 5.	I think those are deserving cases. Both are very sad instances but yes they do happen.
Researcher 10.	What about cases of severe conceptus abnormalities and TOP for economic reasons?
SHE 6.	(pauses a moment)Yes, I would think those are also strong cases to consider.
Researcher 11.	(laughing) Is it not amazing, look how far we've come! When we started this discussion both your husband and yourself seemed so much opposed to abortion, and now?

SHE 7.	I know (joining in laughter!). I think sometimes abortion may be considered under extreme socio-economic conditions. Our neighbour here is a single parent. She has a child and does not work. The situation is pathetic. Often they do not have anything to eat and we have to give them food. Many times I have seen that child eating anything she finds on the road. Not that she (i.e. the child) does not have a step-father. But this man only uses that girl and I don't think he loves her. Of cause, we understand the child is not his that is why he does not care. Can you imagine if that girl were to fall pregnant again?
Researcher 12.	It is a very unfortunate situation (<i>yintlungu yodwa</i>). Mama, I want to thank you very much for this interview. Please, pass my appreciation to your husband when he comes back. I am sure I will be seeing you again.

C. INTERVIEW WITH NOKUZOLA

Nokuzola is an interesting character. Aged about 30 years, she is a Master's student in psychology at the University of Transkei. She is a resident of Phola Park and a single parent of one child. For two years now Nokuzola has started working as a traditional healer. This 'profession' of hers started when she had a 'call' from her grandmother ancestor. A member of the Roman Catholic Church, Nokuzola is strongly religious in her views and sees her role as that of bridging the gap between traditional methods of healing and bio-medical approaches.

The interview was conducted in Xhosa although English strongly featured. However, the final transcript of the interview as it now appears is my own translation.

Researcher 1.	Are you familiar with the Xhosa word/s for termination of pregnancy?
Respondent 1.	Yes, we use the words ' <i>ukuqhomfa</i> ' or ' <i>ukukhupha isisu</i> '
Researcher 2.	As a traditional healer, I suppose you are familiar with the original meaning of these words, what are their essential meaning?
Respondent 2.	Well, to the extent that I know about them, ' <i>ukukhupha isisu</i> ' is almost equivalent to 'termination of pregnancy' as English speakers say. Literally though, the expression means ' <i>to take out a Tammy</i> ' which is rather awkward. The reference is to that which the mother carries in her womb as a result of pregnancy. The word ' <i>ukuqhomfa</i> ' is even stronger. Literally, it means 'to kill from inside'. Think about when as children we 'cleaned' the hair of our grand-mother. Using your hand fingers you searched for lies which you killed using your two thumbs. The lie is squeezed in-between, using the nails of one's thumb fingers. This is what the word means, your are killing a child 'from within'.
Researcher 3.	This practice of <i>ukuqhomfa</i> is not something new then which was not known and done before?
Respondent 3.	<i>Nangoku!</i> (That's right!). Although, of cause it was mostly done as ' <i>ihlebo labafazi</i> ' meaning, a women's secret.

Researcher 4.	In traditional communities what factors led to abortion at all in the first place and why would procuring of abortion be referred to as <i>'ihlebo labafazi'</i> ?
Respondent 4.	As far as I know, women sought abortion for several reasons. For example, married women who became involved in extra-marital affairs resulting into pregnancy, and engaged young female adult who fell pregnant from a 'secret' relationship. <i>Ukuqhomfa</i> became <i>ihlebo labafazi</i> because only women were to know about it. A young engaged woman who fell pregnant confided with her mother. Occasionally, some mothers would take initiative to seek ways of terminating that pregnancy so that the family name is not embarrassed (<i>linga-hlazeke eli khaya</i>). Remember, a girl's pregnancy at home sometimes threatened the very marriage of her mother. The husband would vent all his anger on the wife accusing her of complacency in the pregnancy. Therefore, The mother had a direct interest in the termination of that pregnancy. Also, people who helped with termination of such pregnancies were almost, always other women. This is why then termination of unwanted pregnancies became <i>ihlebo labafazi</i> .
Researcher 5.	Can we say then that giving a woman the right to terminate unwanted pregnancy as TOP does is nothing new among the African communities? In other words, it has always been a woman's right to seek abortion, under the protection of <i>ihlebo labafazi</i> ?
Respondent 5.	No, I wouldn't put it that way. Not that I agree with the abortion Act, in fact I don't, but the new Act as I understand it now gives the women a legal right which she lacked before to seek abortion. The women does not need to 'ask' for permission. No other person can 'stop' her.
Researcher 6.	If abortion was prevalent even in the olden days what then are your objections?
Respondent 6.	<i>Ukuqhomfa</i> even then was never a socially acceptable way of handling unwanted pregnancies. People who made such operations were hated by communities. They only survived because they were feared by the community due to their 'powers' of practising bad medicine. Today, as traditional healers our business is to save life and not to harm or take it.
Researcher 7.	But, when a woman wants to terminate pregnancy the intention is always to save one life against the other due to the reasons prevalent at the time for the woman concerned. What I am saying is that abortion is always about saving a life or lives?

Respondent 7.	I would agree if we were talking about cases that threatened the mother's life but other than that I do not see why abortion should be allowed. Of course, other cases like incest and rape, I am not dismissing them. But my argument is that it must not always be assumed that all those women will necessarily seek abortion nor should they be encouraged to do so.
Researcher 8.	It seems to me that your views on this topic are very conservative, even to the point of being idealistic than pragmatic. Would you agree with me?
Respondent 8.	No, I am being very much realistic. The kind of abortions we are talking about, especially among our African communities, most of them are for flimsy reasons. People just fail to practice safe sex and I am afraid that TOP will just become part of family planning methods. What does that mean in terms of our value system as a nation?
Researcher 9.	However, in spite of how strong our feelings against TOP may be may be, the reality of the matter is that TOP remains very much part of our African reality in contemporary society. How do we deal with that reality in a manner that does not compromise both our faith and our tradition?
Respondent 9.	I guess that is the challenge many of us have to deal with. My concern is that human life must be valued. It is a gift from God transmitted to us through the mediation of the ancestors. At least, this is how African perspectives interpret human life. An easy access of abortion may upset that equation and thus negatively impact on all of us through the reckless life of others.
Researcher 10.	Please explain to me how you see the dynamics at play of this equation you are talking about between God, ancestors and us, the living, especially as this relates to TOP.
Respondent 10.	For us the Roman Catholics this is quite easy to accept. We have always believed that our departed saints have a direct interest in us the living. But their involvement or participation in human affairs is within the directive of God. The way I see it, ancestors occupy a similar role as saints. Of course, in the African context perhaps, the role of ancestors is more emphasized and even dramatized. What makes life sacred is that it is a gift, yes from God but also from our ancestors. The bible tells us that the blood 'speaks' When Cain killed his brother we are told that God asked Cain where his brother, Abel was, because his blood asked for vengeance. It is in this respect that abortion is to us unacceptable.
Researcher 11.	And in cases where the mother's life is in danger?

<p>Respondent 11.</p>	<p>You must appreciate the fact that in our culture blood plays a very important part in terms of its integrative powers. It strikes blood relations, cements relationships and seals covenants. The spilling of blood evokes the 'attention' of the ancestors. If the blood is shed unreservedly it incurs <i>amashwa</i> (i.e. ill omen). If it is shed for ritual or ceremonial purposes it receives their endorsement. Any blood that is shed through <i>ingozi</i> (i.e. accident) or <i>ngokwenza nje</i> (wilful and unthoughtful action) upsets the ancestors. Abortion will inevitable upset the ancestors, because it is a wilful and unthoughtful action of spilling an innocent blood. This is why according to traditional Xhosa custom even a spontaneous abortion requires that the woman undergoes a certain ritual for cleansing. I am not saying a woman whose life is in danger cannot procure abortion. But you must understand that even in such a case there is the spilling of blood which requires that ancestor's attention be not ignored.</p>
<p>Researcher 12.</p>	<p>This has been an exceptionally revealing discussion with you. I want to thank you very much.</p>

D. GROUP INTERVIEW

This interview took place at a social gathering at Phola Park. The interviewees started as a mixture both of males and females, two and three respectively. The Madlala family own what might be called a shebeen and this is where the interview took place. The average ages of the participants rated between 40-60. The responses of the interviews are indicated in this manner, for the men's responses I use the codes: HE.1, HE.2 , and for women: SHE.1, SHE.2, SHE.3.

Having introduced myself, the interview progressed along these lines (NB. Personal translation from Xhosa).

Researcher 1.	What are your views on the new Act on abortion passed by the government?
HE.1 1	Oh! This is a difficult thing to talk about (<i>Hee, yanzima ke le nto</i>)
HE.2 1.	(Almost laughing) <i>Heyi mfondini</i> (my brother!), We cannot understand this government (<i>iyasixakake noko into yalo-rhulumante</i>), because now it is introducing things foreign to our culture.
SHE.1 1.	By the way, what is the reason that the government now wants us to kill our children?
Researcher 2.	What should a woman do with an unwanted pregnancy?
SHE.2 2.	But why should a pregnant woman not want her 'child' (<i>xa kutheni umntu angasifuni isisu sakhe</i>)?
HE. 1 2.	We have forgotten that we are African (<i>singabantu abamnyama</i>) and we find ourselves copying customs of other nations (<i>sihamba sikopa amasiko wezizwe</i>)
SHE.3 2.	I personally, don't agree with this law. But, hee Jola (i.e. calling HE.1) What customs are you talking about? We have lost our sense of being there for the other (<i>asisakwazi kuncedana</i>) Is it our custom that today, old man and fathers sleep with little children?

SHE.2 2.	And men can do despicable things (<i>izibe amadoda ayazenza izinto</i>).[the woman begins to narrate an incident which recently happened at Northcrest, another residence where a man is reported to have been caught by his wife sleeping with his three year daughter. This incident is known to the researcher as well. At the time of writing this work, the man has been attending a court case]
HE.1 2.	<i>Ngamanyala lawo!</i> (That is despicable!) Speaking personally, if I was the government I would reinstate death penalty, exactly for cases like these.
Researcher 3.	(At this stage HE.2 passes to the researcher dregs of what they have been drinking. The researcher declines, instead offers to buy the group <i>isikali</i> (i.e. about a half measurement of a litre of traditional beer. The lady of the house, SHE. 3 offers the researcher dried cooked mealies, <i>inkobe</i> . Meantime the interview continues.)
SHE.2 3.	Addressing herself to the researcher: <i>Hayi mntanam sibonizimanga ngoku</i> (my child, we are witnessing alarming events). Tell me, after this thing you are doing, what changes are we going to see? Will your school make a difference?
Researcher 4.	You would like to see women who do TOP sent to jail? Is that what you would like to see the government do?
SHE.2 4.	Of course not! We cannot condemn all women who terminate pregnancies. After all, men must admit no woman in her right senses will rush for TOP just for fun. In most cases it is because men run away from the woman leaving her alone with the problem.
SHE.1 4.	<i>Ke ntombi umntanakho angaze abeyingaxi yoba ude umbulale? Ngekhe!</i> (Even then you can't punish the 'child' by taking away his life because your partner run away). Look, every day, as mothers we receive children from our daughters whose boyfriends have suddenly disappeared. We don't encourage them to abort those 'babies'. Yes, I agree, it's tough.
HE.2 4.	<i>Hayi ubuchule abukho kulento</i> (Conclusions are difficult to reach on such a topic). Anyway, please, forgive me I must now go. I have to go to town for some business. (HE.2 leaves and He.1 takes him out leaving. The discussion continues for a few minutes before the researcher leaves thanking all the participants.
Researcher 5.	I want to thank each one of you for this discussion. I really appreciate it.

E. INTERVIEW WITH DR NGALO

Dr. Ngalo lectures at the University of Transkei in the Social Work faculty. Part of the curriculum involves taking students around peri-urban communities around Umtata in places such as, Ngangelizwe, Peyin and Phola Park. Students are expected to make regular visits to these communities accompanied by their lectures occasionally. This programme is like an internship which familiarises students with the life situations of the poor and marginalised communities of our society. Students, among other things give life skills, such as, health consciousness related information to the people living in these areas.

Dr Ngalo is very familiar with Phola Park demographics and the general life of the people there. My interview with her covered a lot of areas related to the abortion Act and what this new Act may mean for the poor and marginalised members of our communities. What is reported here is an abridged version of our long and many discussions, as I prefer to call them.

Researcher 1.	Dr. Ngalo I am writing my Master’s thesis on the new abortion Act. I am particularly interested in examining its impact, if any, on the peri-urban women. Your comment?
Respondent 1.	Oh! Very interesting. What made you interested in such a topic and how do you plan going about collecting your information?
Researcher 2.	Specifically, I want to look at the religio-cultural orientation of the peri-urban women and what influence this might have on them in accessing abortion service. What experiences do you have in this area with both rural and peri-urban women?
Respondent 2.	To begin with, abortion is a very secretive thing among African women. Even in traditional rural communities, abortion has long been practised. Of course, men hardly knew about it because it has been a women’s secret, <i>ihlebo labafazi</i> .
Researcher 3.	What would have been the reasons in the first place that made some women to procure abortion?

Respondent 3.	Several factors contributed, such as, the fact that husbands were working in the mines leaving their wives at home for a long time. Sometimes girls who were already engaged and who fell pregnant from other relationship other than one's bridegroom. In those instances some of those women would seek abortion.
Researcher 4.	But they couldn't procure abortion from medical doctors or health centres, where did they go then?
Respondent 4.	There were usually women who had the knowledge of 'certain ways' they could use to terminate the pregnancy. Short of that, the newly born infant would be suffocated by the woman's midwives. A small 'grave' would be dug <i>egoqweni</i> (i.e. a pile of wood) and the 'thing' (<i>loo nto</i> , an euphemism for the infant) would be 'buried' there.
Researcher 5.	Why was <i>egoqweni</i> chosen and was that not considered infanticide?
Respondent 5.	You know that in our culture a kraal is a place for men and not women. Indeed, a married woman, especially, will not enter a kraal. Equally, <i>igoqo</i> is a place excluded from men's access. This is why it was chosen by women so that they could keep <i>ihlebo labafazi</i> exclusively to themselves, ... The status of a newly born 'child' has been ambivalent. For example, if the woman does that without the accomplice of the midwives and is discovered, such an action would be regarded with extreme condemnation. On the contrary, if the action was condoned by the midwives the burden of being jettisoned would be almost non-existent.
Researcher 6.	But why this application of double standards?
Respondent 6.	I suppose it has to do with the high value with which African culture attaches to life. You cannot unilaterally decide to take one's life. You need validation from others for such a serious action if it comes to a point that it has to be done. If you do that on your own who will exonerate your action, because you can not do that yourself being the perpetrator of the same action, ...
Researcher 7.	Now, coming back to the peri-urban women, with reference to places such as Phola Park to what an extent would one find cases of induced abortions there?

Respondent 7.	Exactly the same if not higher than in the urban/city environments. You know that poverty breeds a 'swam' of undernourished children. This is why you find a high mortality rate among the rural/peri-urban children in comparison to the children in the urban/city environment. These sickly (and often fatherless) children complicate further the lives of these women who, by-the-way, are struggling very hard to improve their quality of life. These women are trying to get jobs, educate themselves, get into informal business sector and so forth-this is why the mere thought of having an unplanned and unwanted pregnancy simply becomes unbearable.
Researcher 8.	You sound very passionate about this almost playing an advocacy role, if I may say, on behalf of these women?
Respondent 8.	And for that I will not apologise. Andile, I am a woman myself and a single parent to my own three children. I have first hand experience of how hard it is to raise a child. I am not just talking about financial constraints-which is not to deny its major role. Emotionally, psychologically, socially and so forth your life completely changes with the new demands of being a parent. Of course, nobody is going to blame the child for the expectations (and demands) she/he has of her parent/s. If the woman feels she is not able or ready to play that role who can blame her? ...
Researcher 9.	In terms of this new Act a woman does not need consent of her spouse whether married or not, in order to procure abortion. What are your comments on this aspect of the new Act?
Respondent 9.	Frankly, I don't care <i>Kudala amadoda edlala ngathi!</i> (i.e. Men have had it easy for too long). It's high time women were empowered to make informed choices especially as these affect their reproductive rights. I don't understand it why if women are empowered men feel they are being disempowered. This thing should not be like a tug of war, ... Yes, in so far as the new Act allows minors to procure abortion without consultation with their parents/guardians I have serious reservations about that even though I understand the rational behind that reasoning.
Researcher 10.	Thank you very much Dr Ngalo for your time and your valuable contribution.

APPENDIX IV**QUESTIONNAIRE TO NURSES AT UMTATA GENERAL HOSPITAL****Part One**

1. When was the service started in this hospital?
2. Number of cases performed to date?
3. Status of persons presenting themselves, in terms of
 - 3.1 (i) Married
 - (ii) Single
 - (iii) Minor (under 18 years)
 - 3.2 (i) Urban/City
 - (ii) Rural/Peri-urban
 - 3.3 (i) Professional/Educational level
 - (ii) Non-professional/literacy level
 - (iii) First time mothers

Part Two

1. Any significant gradual increase in terms of numbers since implementation or has numbers stabilised?
2. In general do clients present themselves within 20 weeks or after?
3. In general do couples come together for counselling and advice or only women present themselves?

Part Three

1. Counselling provided
 - 1.1 Pre-counselling
 - 1.2 Post-counselling
 - 1.3 Nature and scope of counselling

APPENDIX V

UMTATA GENERAL HOSPITAL: A GROUP INTERVIEW WITH THE NURSES

The group interviewed here was not selected by the researcher for any particular reason. This was a group of three nurses who happened to be on duty at the time the researcher made his first visit to the hospital. The interviews lasted about an hour each session using their lunch hour. There were two of these sessions, two days in succession.

The reception both by the hospital superintendent and the nurses was very warm. The three nurses spoke with visible willingness to help in every way they could.

SPEAKER	CONTENT
Researcher 1	Since the new Act on abortion became law, how soon did this hospital start receiving clients for TOP?
SHE.I 1	Almost immediately. Remember we have been servicing TOP emergency even before TOP became law. These were cases of women who presented themselves with incomplete abortions which were self induced. Or cases where abortion was completed but the patient had since become <u>septic</u> . The number of clients has, of course, increased now.
Researcher 2	We are talking about how many numbers a month?
SHE.II 1	They vary anywhere between 50 to 100.
Researcher 3	Are these the numbers you anticipated in terms of your planning, how are you coping with such figures?
SHE.I 2	That is where we are experiencing a great difficulty. When TOP was introduced here we already had the cases I referred to earlier. Already, our Gynaecology ward was full which only takes a maximum of four clients at a time. Now with 50 - 100 numbers we have to handle every month, how do you think we are coping?

SPEAKER	CONTENT
SHE.III 1	Truly speaking, no planning was made here at all before TOP was introduced. There is a shortage of space in terms of more beds and even wards which we need. There is hardly any privacy for TOP clients, as you can see (the nurse waves her hand around showing me TOP patients who are some distance away from where we are sitting). We are experiencing severe lack of personnel. Remember, TOP is like an added service to the service that already existed. This has meant that we have more work to do while the personnel has not been increased.
Researcher 4	It sounds to me like you are working under very stressful conditions here?
SHE.I 3	You cannot even begin to imagine. As a result we are experiencing a lot of staff absenteeism, low work morale, staff burnout and so forth, all the things that are not conducive to the good working environment. It's very frustrating.
Researcher 5	I wonder how all of this affects TOP clients who must be coming here quite anxious about the kind of reception they are going to receive?
SHE.I 4	Very negatively. To be honest to you, when this service was introduced in March, many of us, both doctors and nurses were very much against it, some still are. However, between ourselves we talked and we agreed that we should not allow our objections, be they religious or otherwise, to compromise the needs of the client. Attitudes are slowly beginning to change, although many of us are still not quite resigned to putting our personal objections aside.
SHE.II 2	You must appreciate the fact that although abortion decision may be a personal one, when it comes to the actual implementation the client becomes almost passive, and it is the health worker who becomes active in the implementation of someone else's decision. This is the dilemma. So that while the client may have very little idea of what is going on during the actual termination process, you as a health worker are pretty much informed of the entire process. This troubles one's conscience, especially if you are against abortion.
Researcher 6	Tell me about the procedure TOP clients have to follow when they come here seeking to procure abortion.

SPEAKER	CONTENT
SHE.I 5	When TOP first started there were no rules or procedures in place. Initially, the hospital did not administer the service for TOP clients. What was done was to prescribe for the client Misoprostol (cytotec) which a client would self administer at home. The client would only come to the hospital for evacuation and cleaning procedures. At that time no proper records of clients were kept. But, since May new procedures have been drawn which ensure that records are kept and that there is a tighter control of the system.
SHE.III 2	That was the time when the staff here were still very much reluctant to cooperate with the government. But there was this one doctor who was seen pretty much as pro-abortionist' by most of us. It is him who did most of the prescribing of cytotec for clients to administer themselves. The problem though was clients came back for the completion of the procedure in many numbers than we were able to cope with. As a result there were several complications for clients as a result of the method that was used.
Researcher 7	Tell me about the nature and scope of counselling you give to TOP clients.
SHE.II 3	Before these new rules were issued there was practically no counselling given to the clients. As I said, clients were simply given cytotec by this doctor, who seemed willing (and happy?) to do this thing: But there was no way he could offer counselling to the many women who were coming here for TOP. Now the situation has slightly improved. Firstly, clients are taken to the scan to establish the term of pregnancy. This helps to ascertain whether in fact the client qualifies for abortion under the stipulation of the law, for example, she must be within 12 weeks of pregnancy to qualify for TOP, if it is abortion on request of the woman. Then a pre-abortion counselling is offered to the client and post-abortion counselling as well.
Researcher 8	Who offers these counselling sessions?
SHE.I 6	Us, the nurses, those who are at the duty at the time.

SPEAKER	CONTENT
Researcher 9	In other words, you have no specially trained people in counselling who attend to these clients?
SHE.II 4	No we don't. As we said, no prior planning was done here to implement this service properly. All that has happened is the addition of duties to the already over worked staff And this is one big problem we have here, besides the fact that even physical resources are scarce, old, breaking, or sometimes just not working at all. Even those of us who do not really mind being directly involved in the termination procedure, are actually frustrated by the conditions under which we are working. But what can we do, because those of us who raise issues soon become victims of the management. This is the situation under which we are working here.
Researcher 10	It must be difficult, ... It seems you need counselling yourselves working in this kind of depressing environment! (a moment of laughter follows which some how lightened the sombre mode which had descended. The formal interview 'collapses' and we begin to discuss general issues. The group begins to ask questions about my academic plans and so forth. After a while we close the session and agree to meet the next day and continue with the interview. Before I go they show me TOP records which they photocopy for me. In order to ensure the confidentiality of the clients we agree to exclude the names of the clients so that their confidentiality is not compromised. The nurses give me copies of Annexure A & B which clients have to fill in when making a booking. I take this information with me to study it in preparation of our next meeting which is scheduled for the next day. Below is the second part of the interview which took place with the same group on the next day).
Researcher 10	(We recap first on the previous day of the interview and then I continue to ask further questions). Yesterday we ended when we were talking about counselling that is given to clients who come for TOP. What happens if the client is told she is already above 12 weeks and therefore cannot have abortion? What kind of counselling do you give to that woman?
SHE.II 5	If the woman is not going to have abortion done that is what she is told. Such a woman is automatically excluded from further consultation or pre-abortion counselling. From our own perspective this means that she has to carry the pregnancy to full term.

SPEAKER	CONTENT
Researcher 11	In other words, in terms of your brief, you only counsel those clients who either are about to have abortion or those who have just been through the process?
SHE.II 6	Correct.
Researcher 12	A woman who came here for abortion and was refused, that woman still carries an unwanted pregnancy. Surely, her situation has not changed. Doesn't she also deserve counselling so that she can cope with the prospects of giving birth to an unwanted child.
SHE.II 7	But that nature of service is not catered for here. Think of how many women we are talking about and already our limited human resources are outstretched.
SHE.III 3	Of course, we hear your point, but as ' SHE2 ' says, we are really short-staffed and the demand is so high.
Researcher 13	How long does counselling continue for those clients who actually have abortions performed?
SHE.I 7	We don't see them again. The post-counselling session involves family planning methods so as to avoid falling victim of further unwanted pregnancy.
Researcher 14	I noticed when I was reading TOP record cases that the number of married women seeking TOP is almost equal to the number of single women. Why is this?
SHE.I 8	That does not surprise us here. That is very common here at Umtata and all those married women who come here for TOP, as far as I know, only one case I can remember when a married woman came with her husband, the rest don't. We can only speculate as for the reasons why this is common because even when we ask them, most of them become evasive.
SHE.II 8	True. These women will tell you any reason calculated at winning your sympathy, so that they may get what they want.
Researcher 15	You make it sound like they do not disclose 'real' reasons why they seek abortion?
SHE II. 15	It is not always easy to judge who is telling and truth and who is not. But usually women who come here will give reasons like failure of contraceptives, having too many children already, afraid of parents, getting pregnant from a casual relationship ...
SHE.III 4	Some want abortion because they want to finish school first, or because the boyfriend has left her for another woman ...

SPEAKER	CONTENT
SHE.I 9	Of course, we get cases of incest and those whose continued pregnancy carries a risk to the life of the woman. But there are those who see TOP as just another form of family planning. We get a lot of young girls here wanting an abortion. In most cases they come as a group.
Researcher 16	How do you handle such cases?
SHE.III 5	They are given a kind of group counselling because they will not come alone. They seem anxious not to be seen in case they meet someone who knows them. Some of them end up getting what they wanted, except of course those who present themselves too late.
Researcher 17	I suppose you will continue to get emergency cases of those who still resort to backyard abortions, either because they are afraid to come to the hospital, or because they have been refused abortion?
SHE.I 10	Yes, as a matter of fact we do. In fact, there is no decrease in terms of cases we treat now. In that regard TOP has made no difference.
Researcher 18	When you look at the demographics of clients who come here for TOP, do you have significant numbers from rural/peri-urban women?
SHE.II 9	<i>Amabhinca ayafika nawo apha</i> (rural/peri-urban women also come here). They come here, including the married ones wanting TOP. Their reasons in fact are not any different than others who come from urban and city environment. Infidelity and containing numbers of children one already has due to financial difficulties.
Researcher 19	I want to thank you very much for your time you spent with me.

APPENDIX VI

TERMINATION OF PREGNANCY GUIDELINES⁴¹

GENERAL GUIDELINES

Until further notice, the following guidelines will apply:

1. On no account with Misoprostol (cytotec) be prescribed for outpatient use.
2. Each Firm will book no more than 4 patients per week for TOP (two cases before 12 week's gestation, and two after 12 week's gestation) in order to save a 4 bed space in the GOPD and the Gynae Wards, respectively.
3. Bookings and admissions for elective TOP will only be done on Gynaecological Clinic days running from Monday to Wednesday.
4. Elective TOP will not be carried out during calls.
5. All incomplete abortions resulting from TOP are emergencies and will be treated the same as incomplete abortions following spontaneous abortions.
6. Careful documentation must be made of all procedures in the record book in GOPD, as well as in these notes.

TOP PROTOCOL:

1. Confirm diagnosis of intrauterine pregnancy and estimate gestational age. Exclude any systematic medical or gynaecological disorders by a quick general and systematic examination,
Investigations: Urine pregnancy test, Ultrasound examination.
Pap smear.
2. Counsel client after the diagnosis is confirmed, and the gestation period ascertained.
3. Routine investigations: FBC, U&E, Blood Group and RhD Factor, VDRL.
4. **For clients < 12 weeks' gestation:**

⁴¹ These guidelines are only applicable to Umtata General Hospital.

- Book for admission to GOPD on Clinic Day.
- Admit in GOPD on Firm's Clinic Day (Restricted to 2 cases per Firm per week) and include on slate for the following day for suction curettage or evacuation.
- Start on cytotec the afternoon of admission: 400 ug stat orally or vaginally, then 200 ug 4-hourly for 3 doses.
- Check for cervical dilatation or abortion early the following day.
- If cervix is open and she has not yet aborted or is incomplete arrange for suction curettage or evacuation in theatre. If cervix is tightly closed, repeat course of cytotec, and arrange with the next Firm to assist in suction curettage or evacuation in theatre.
- Observe patient for a few hours in the GOPD; discharge in the afternoon if condition is satisfactory.

5. For clients > 12 weeks' gestation up to two weeks' gestation

- Book for admission to the Gynae Ward as for other elective cases.
- Admit to Gynae Ward on Firm's Gynae Clinic Day (Restricted to two cases per week).
- Start on cytotec: 400 ug stat orally or vaginally, then 200 ug 4-hourly for 6 doses or until she aborts. Re-evaluate if no abortion occurs within 36 hours, and exclude extra-uterine pregnancy before repeating course.
- If she aborts incompletely, evacuate as an emergency.
- Discharge when ready, and record procedures in the Record Book in the GOPD.

TERMINATION OF PREGNANCY PROCEDURE

1. Patient seen in Gynae. OPD by Sister - requests TOP -referred to doctor.
2. Assessment by Doctor in OPD
 - History
 - Examination
 - Blood taken for HB, WR, Rh
 - Cervical smear
 - Case sheet prepared with name, ward no. for admission.
3. SONAR examination
 - To confirm pregnancy
 - To assess gestational age.
4. Counselling
 - In gynae OPD by Sister
 - Afternoons only
 - Consent form to be signed by patient and midwife
 - Misoprostol handed to patient by Sister after counselling.
 - OR admission arranged to Ward for induction when appropriate.
5. Termination procedure

SUCTION

Following morning by 7H30
 Patient goes direct to Ward.
 Ward staff prepare her for minor procedure

SUCTION TOP under analgesia

If cervix insufficiently dilated:

- Repeat full misoprostol regime once
- OR dilate to 8 under paracervical block.

INDUCTION

Admit by arrangement to Ward
 at 7H30

Misoprostol 400 umgs stat
 Misoprostol 200 umgs every 4
 hours until abortion.

It may take 24 to 48 hours for
 abortion to occur

If no response by then
REASSESS extra-uterine
 Evacuation as required post
 abortion

Observation in ward 27 for 1 to 2 hours	Minimum 12 hours observation post-abortion
Home same day, with contraception (start at once	Discharge on antibiotics
No antibiotics,	Start contraception at once
No routine follow up	

These are:

- use at least 20 students who share different African experiences, in terms of the differences of their rural communities.
- eliminate any identifying character of the students that would render questionable the validity of the findings (e.g. same locality, age, etc.).
- The subjects will be chosen by the researcher in terms of spread of geographical project.

APPENDIX VII

FORMS FOR COMPLETION BY TOP CLIENTS

ANNEXURE A

CHOICE ON TERMINATION OF PREGNANCY ACT, 1996 (ACT No. 92 OF 1996)
 NOTIFICATION OF TERMINATION OF PREGNANCY IN TERMS OF SECTION 7 OF THE ACT
 FORM TO BE COMPLETED BY A MEDICAL PRACTITIONER OR A REGISTERED MIDWIFE

(To be completed in duplicate)

1. Name of facility Uthmaniyah General Hospital

2. Age of woman requesting termination 18 years

3. Where appropriate (encircle appropriate number):

3.1 Termination in terms of section 2 (1) (a) or (b) of the Act.

3.2 Severe mental disability [section 5 (4) (a) of the Act.]

3.3 Continuous unconsciousness [section 5 (4) (b) of the Act.]

4. Race (mark with a cross):

☒ African

☐ Coloured

☐ Asian

☐ White

☐ Other

If other, specify

5. Marital status (mark with a cross):

☐ Single

☐ Living together

☐ Married

☐ Divorced

☐ Widowed

6. Date of last menstrual period (LMP)

7. How many weeks into pregnancy?

8. Number of previous pregnancies:

No. of live births

No. of stillbirths

No. of terminations

No. of miscarriages

9. Date of admission

Date of procedure

Date of discharge

10. Termination of pregnancy (mark with a cross):

☐ (a) first 12 weeks

☐ (b) 13-20 weeks

11. Indication for termination of pregnancy (applicable only to termination performed from

13th up to and including 20th week of gestation period) (circle appropriate number):

11.1 Woman's physical or mental health [section 2 (1) (b) (i) of the Act].

11.2 Foetal physical or mental abnormality [section 2 (1) (b) (ii) of the Act].

11.3 Rape or incest [section 2 (1) (b) (iii) of the Act].

11.4 Social or economic circumstances [section 2 (1) (b) (iv) of the Act].

Name of medical practitioner or registered midwife

Signed Date

Qualifications Date of registration

ANNEXURE B

CHOICE ON TERMINATION OF PREGNANCY ACT, 1996 (ACT No. 92 OF 1996)

1. STATEMENT BY MINOR WHO REQUESTS THE TERMINATION FOR HER PREGNANCY

I, the undersigned (surname and first names of minor).....
, hereby state that I have been advised by (surname and first names of medical
 practitioner/registered midwife*).....
 in terms of section 5 of the Act to consult with my parents, guardian, family members or friends before the
 termination of my pregnancy.

Signature.....

Date

* Delete what is not applicable

II. CONSENT TO THE TERMINATION OF THE PREGNANCY OF A WOMAN WHO IS SEVERELY MENTALLY DISABLED OR IN A STATE OF CONTINUOUS UNCONSCIOUSNESS

Name of facility.....

1. Intended termination of the pregnancy of (surname and first names of minor/major woman)
, born on..... and having the identity number (where available)
 and the facility/hospital/clinic number
2. I (surname and first names) the undersigned, acting
 as the natural guardian/legal guardian/*curator personae*/spouse* of the above-mentioned woman, hereby, in
 terms of section 5 (4) (i) or (ii) of the Act request and consent to the termination of the pregnancy of (surname and
 first names of the above-mentioned minor/major woman).....
 who is -
 (a) so severely mentally disabled that she is completely incapable of understanding and appreciating the
 nature or consequences of the termination of her pregnancy: or
 (b) in state of continuous unconsciousness and has no reasonable prospect of regaining consciousness in
 time to request and to consent to the termination of her pregnancy in terms of section 2 of the Act.

Signature.....

Date

Natural guardian/legal guardian/*curator personae*/spouse* refuses to consent.

CONSENT OF TWO MEDICAL PRACTITIONERS OR A MEDICAL PRACTITIONER AND A REGISTERED MIDWIFE

3. I,, the undersigned, being a medical
 practitioner, and I,, the undersigned, being a medical
 practitioner/registered midwife who has completed the training course*, certify that we examined (surname and
 first names of above-mentioned minor/major woman).....
 on:..... (date).
4. In our opinion her pregnancy is within the first 20 weeks of the gestation period and*-
 (a) the continued pregnancy would pose a risk of injury to the woman's physical or mental health
 [section 2 (1) (b) (i) of the Act];
 (b) there is a substantial risk that the foetus would suffer from a severe physical or mental abnormality
 [section 2 (1) (b) (ii) of the Act];
 (c) the pregnancy resulted from rape or incest [section 2 (1) (b) (iii) of the Act]; or
 (d) the continued pregnancy would significantly affect the social or economic circumstances of the woman
 [section 2 (1) (b) (iv) of the Act].
5. We consent to the termination of her pregnancy.
 (a) Signed Date.....
 Qualifications..... Registration number
- (b) Signed Date.....
 Qualifications..... Registration number

* Circle what is applicable.