


FREE WEBINAR

Hosted by
Doctors For Life

**Abortion, Conscientious
Objection and the Law**

Guest Speaker
Adv. Keith Matthee SC
2 July 2020 at 19h00

 **Doctors For Life**
INTERNATIONAL

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As a nation we would be well advised to heed the words of Professor Forstchen in his review on the film “Downfall”, which exposes the evil of Adolf Hitler:

***“The true form of evil rarely looks evil on the surface,
it seduces us with fair face as it leads,
sometimes an entire nation, into damnation.”***

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Abortion, Conscientious Objection and the Law –

ANOTHER APPROACH NEEDED, REQUIRING A
FUNDAMENTAL SHIFT OF THINKING

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Abortion, Conscientious Objection and the Law

- At one level, there is a simple answer to the advertised question.
- Section 15, read with sections 16 (freedom of expression) and 9 (right to equality) of the Bill of Rights gives everyone the right to freedom of conscience, religion, thought, belief and opinion.
- Taking this approach the complication arises from section 10 (c) of The Choice on Termination of Pregnancy Act, 92 of 1996 - hereafter “the Abortion Act”.
- It reads: “10 (1) Any person who ... (c) prevents the lawful termination of a pregnancy or obstructs access to a facility for the termination of a pregnancy, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 10 years.” (But see the effect of “informed consent” later.)
- But this evening I want us to approach this issue in a wholly new way, which addresses the real issue underlying the need for conscientious objection, caring for all unborn children and their mothers, and, partially, section 10(1) (c) of the Abortion Act.

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Assumptions

- The focus of concern of the participants – unborn children and their mothers
- Terminology and focus of concern - **pro life** - child and mother, **pro choice** – mother
- The final reference points for medical practitioners, is to “do good do no harm to human life” AND for such decisions to be grounded in medical science

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Mindshift

Fundamental shift of mind necessary –
from self/conscientious objection to unborn children and their mothers,
from religious/ideological decisions to science based decisions

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Big lie

“pro choice” not ideologically driven, but rooted in science,
and
“pro life” rooted in religion/ideology

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Some illustrations

- WC Health Department Circular on Guidelines and Protocols on abortion (H35/2016) and its reliance on Best Practice on abortions of the Royal College of Obstreticians and Gynaecologists – Paper No 2, 2015
 - a) It claims to be based on “the latest evidence-based clinical practices” – yet in it the authors assert as a fact that it is a myth that there are “proven associations between induced abortions and subsequentpsychological problems.”

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Some illustrations cont.

But compare: - Professor Coleman (Human Development and Family Studies at Bowling Green State University in Ohio) writes: “My review offers the largest quantitative estimate of mental health risks associated with abortion available in the world.... The sample consisted of 22 studies, 36 measures of effect, and 877, 297 participants (163, 880 of whom experienced an abortion). Results revealed that women who aborted compared to women who had not, experienced an 81% increased risk for mental health problems. When compared specifically to unintended pregnancies delivered, abortions were associated with a 55% increased risk of mental health problems.” She then highlights some: “... anxiety disorders 34%; depression 37%; alcohol abuse 110% and suicide behaviours 155%.”

She concludes: “The scientific evidence linking abortion to increased rates of mental health problems is published in leading peer-reviewed journals in psychology and medicine.

(The said overview and her cv can be obtained at www.keithmatthee.com)

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Some illustrations cont.

Second example – underlying the circular and the best practice paper is that **“abortion is safer than childbirth.”** In fact this is expressly stated on 2 occasions. Whilst in science when it comes to the physical well-being of the mother, this assertion is arguable, Prof Coleman’s survey of the literature specifically shows that this is not the case when it comes to psychological and emotional consequences.

In this regard of particular interest is that under “Staff Support” in the said WC Circular there is the following provision: “ Confidential access to professional counselling should be made available to personnel (assisting in abortions) in need of it.” Why might there be such a need, especially as according to the circular all that is being done is removing “products” from the pregnant woman and that it is a myth that there are adverse psychological effects to the woman having an abortion?

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Some illustrations cont.

Third example – when referring to the unborn child he/she is referred to as **“products”** (The Abortion Act - refers to **“the contents of a woman’s uterus”**.)

If the unborn child is no more than the “contents of a woman’s uterus”, or “products”, why the need to distinguish between the first, second and third trimester, indeed why is there a need for the Abortion Act in the first place? Why can the mother not remove the “products” from her in the 39th week if she decides having a child is inconvenient? For example, there is not an Act controlling the removal of a woman’s tonsils, which also is a “product’ in her body.

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Some illustrations cont.

Compare - Dr Warton (for many years he taught anatomy, embryology and neuroscience to UCT’s medical students. He has written two manuals on embryology which have been used extensively by medical students at UCT) writes: **“The information relating to embryonic and fetal development ...has been very well established for many years and is not a matter of the latest research. ... Biologically the life of an independent human organism begins at the time of fertilisation (conception). At this time its genetic code is set and as a consequence its future physical characteristics are defined with precision... .Clearly the organism will develop enormously over the subsequent months and years but there is no event during development which fundamentally changes it from a non—human organism to a human organism. Various times or events of development have been used to attempt to define the initiation of human personhood for various practical reasons but the life of the organism is one seamless continuous process... . We may debate philosophically or legally her/his status but it is entirely reasonable for a person seeing such a foetus to regard him/her as a small human being. In my experience that is a normal response to seeing such a foetus.”** (His full report also is available at www.keithmatthee.com)

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Rooted in science



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Rooted in science

Clearly, describing what we have just seen as “products” or as “the contents of a woman’s uterus” is not rooted in medical science, but in ideology. And regarding the unborn child as a patient to whom good must be done and no harm must be done, is firmly rooted in medical science, not in religious or ideological conviction. (Of course this medical science illustrates the veracity of the holy books of Judaism, Christianity and Islam when it comes to the fact that from conception we are dealing with a human life.)

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Impact on approach

With this mind shift there is a direct impact on our approach when it comes to defending the unborn child and her mother, and in the process assuaging our consciences!

As an example – DFL has been approached by a number of doctors and nurses based in a government hospital somewhere in SA. The question put to us by them was what were their rights to conscientious objection when it comes to being co-opted to participate in elective abortions. After consulting with them we prepared a **letter** to be sent to those in charge at the hospital. (On request it can be sent to anyone interested.)

The approach set out in that **letter can be rolled out** throughout South Africa, and indeed any neighbouring countries as needed. **The thinking in the letter basically involves a two-pronged approach.**

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Use the Abortion Act creatively

For example, central in this regard is the use of the requirement of the **“Informed consent”** of the pregnant woman/girl child. In the letter we set out that our law requires 3 requirements for such informed consent, **knowledge, appreciation and consent.** And we see that **our law requires substance** when it comes to the doctor or midwife satisfying herself of all three, **otherwise performing an abortion is unlawful.** We also see that there is an **additional onus** when it comes to the doctor or nurse satisfying herself that a **girl child’s consent is informed.** These requirements at the **very least would require the pregnant woman to be informed concerning the evidence of Dr Warton,** including a visual presentation of an unborn child the age of her child, and the **significant emotional and psychological risks** attendant on an elective abortion as expounded by professor Coleman.

At the moment doctors and nurses **can hide behind** something like the WC Health Department’s circular, which refers to unborn babies as “products” and says as a fact that it is a myth that there are psychological effects attached to an elective abortion. **Crucial is to take that defence away from doctors and nurses.**

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Use the Abortion Act creatively cont.

Another example is the responsibility on the medical practitioner in the second trimester to satisfy himself that “the continued pregnancy would significantly affect the social or economic circumstances of the woman.” As they would not have the necessary expertise to make this call they would have to request the state to enlist the necessary expertise before they can rely on this ground to perform an abortion. Refusing to perform the abortion before this evidence is presented is simply complying with the Abortion Act.

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Use the Abortion Act creatively cont.

Another example is for doctors and nurses to refuse to participate in an abortion unless in their area the state has complied with its duty referred to in **section 4. of the Abortion Act, the provision of counselling before and after** an abortion. In the light of the expert medical evidence of Professor Coleman, this must be a major concern for medical practitioners when assessing medically what is in the best interests of the pregnant woman.

A further example is the ethical duty to examine a patient and remain in a professional relationship with her from the outset until the abortion is completed where medication is prescribed.

Complying with the **substance** of the above provisions of the Abortion Act and the ethical and legal requirements when prescribing and dispensing drugs, will present significant logistical problems to the present **conveyor belt approach** to abortion, **which is built on a foundation which has no regard to the substance of significant requirements of the Abortion Act and the ethical and legal requirements of prescribing and dispensing of drugs.**

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“Do good, do no harm” as reference point

Use as a reference point, combined with medical science, the ethical requirement to “do good do no harm to all human life”, and **NOT** the right to conscientious objection.

This do good do no harm reference point **must be combined** with a position **rooted in medical science** that unborn children are human life and thus a doctor/nurse **has two patients** when dealing with a pregnant woman; that central to consent being informed is that the mother is made fully aware of the development of the child within her; and that the mother must be apprised of the medical fact that there are significant emotional and psychological risks attached to an elective abortion before she makes a decision.

Because something is lawful, does not make it medically ethical and rooted in medical science.

It is unethical of a doctor/nurse to hand over a patient to a doctor/nurse who grounds their decision merely in their personal ideology or what the law permits, **without using medical science and medical ethics as their reference point – SO THERE IS A REVERSAL OF THE ARGUMENT AGAINST CONSCIENTIOUS OBJECTORS THAT THEY ARE PUTTING THEIR “SPIRITUAL INTEREST (AHEAD OF THE) THE PATIENT’S HEALTH OR OTHER INTERESTS’ (to quote the WC circular) – in fact it is the pro choice medical staff who are guilty of this, and must be charged accordingly. (Compare with nazi Germany and apartheid SA.)**

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Outcome of the approach

- The effect of such an approach, if rolled out throughout SA and neighbouring countries, will be far reaching for unborn babies and their mothers. **Furthermore, in effect we will be achieving the same, and far more, than if we merely conscientiously objected.** (Martus and I are available to help at no charge, other than travel and accommodation costs.)
- **CRUCIAL – COURAGEOUS DOCTORS AND NURSES, AND OTHERS, WHO ARE PREPARED TO SACRIFICE IN DEFENCE OF THE MOST DEFENCELESS IN OUR SOCIETY, AND THEIR MOMS.**
- I REFER TO OTHERS AS THERE IS A NEED FOR WIDER SOCIETY TO GALVANISE AND ORGANISE HOMES AND CARING FACILITIES FOR THESE MOTHERS IN CRISIS, SO THAT WHEN THEY GO TO HOSPITALS AND CLINICS THE NURSES AND DOCTORS CAN IN THEIR DEALINGS WITH THEM REFER THEM TO SUCH HOMES AND CARING FACILITIES AS A VIABLE ALTERNATIVE TO ABORTION. (I refer you to Chapter 16 of my book, The Emperor Has No Clothing, which touches on this. It also is freely available on my website, www.keithmatthee.com)

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CONCLUSION

- As I prepared for this webinar, as from about the 26th March until 30th June, 2657 people have died in SA from COVID19 related causes. Many of these elderly people and people with co-morbidities. In the same period using the average official figures, some 42750 unborn babies have been intentionally killed in SA by doctors and nurses at the behest of their moms. This reality simply has not featured on the radar of the leadership of the medical and nursing professions, churches, synagogues, mosques, temples and the wider civil society.

- Reflecting on this before COVID19, I ended my book, *The Emperor Has No Clothing*, as follows:

“As a nation we would be well advised to heed the words of Professor Forstchen in his review on the film “Downfall”, which exposes the evil of Adolf Hitler: “The true form of evil rarely looks evil on the surface, it seduces us with fair face as it leads, sometimes an entire nation, into damnation.”