

ABORTION

CHAPTER
O N E

The Wrong of Abortion

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Much of the public debate about abortion concerns the question whether deliberate feticide ought to be unlawful, at least in most circumstances. We will lay that question aside here in order to focus first on the question: is the choice to have, to perform, or to help procure an abortion morally wrong?

We shall argue that the choice of abortion is objectively immoral. By “objectively” we indicate that we are discussing the choice itself, not the (subjective) guilt or innocence of someone who carries out the choice: someone may act from an erroneous conscience, and if he is not at fault for his error, then he remains subjectively innocent, even if his choice is objectively wrongful.

The first important question to consider is: what is killed in an abortion? It is obvious that some living entity is killed in an abortion. And no one doubts that the moral status of the entity killed is a central (though not the only) question in the abortion debate. We shall approach the issue step by step, first setting forth some (though not all) of the evidence that demonstrates that what is killed in abortion – a human embryo – is indeed a human being, then examining the ethical significance of that point.

Human Embryos and Fetuses are Complete (though Immature) Human Beings

It will be useful to begin by considering some of the facts of sexual reproduction. The standard embryology texts indicate that in the case of ordinary sexual reproduction the life of an individual human being begins with complete fertilization, which yields a genetically and functionally distinct organism, possessing the resources and active disposition for internally directed development toward human maturity.¹ In normal conception, a sex cell of the father, a sperm, unites with a sex cell of the mother, an

ovum. Within the chromosomes of these sex cells are the DNA molecules which constitute the information that guides the development of the new individual brought into being when the sperm and ovum fuse. When fertilization occurs, the 23 chromosomes of the sperm unite with the 23 chromosomes of the ovum. At the end of this process there is produced an entirely new and distinct organism, originally a single cell. This organism, the human embryo, begins to grow by the normal process of cell division – it divides into 2 cells, then 4, 8, 16, and so on (the divisions are not simultaneous, so there is a 3-cell stage, and so on). This embryo gradually develops all of the organs and organ systems necessary for the full functioning of a mature human being. His or her development (sex is determined from the beginning) is very rapid in the first few weeks. For example, as early as eight or ten weeks of gestation, the fetus has a fully formed, beating heart, a complete brain (although not all of its synaptic connections are complete – nor will they be until sometime *after* the child is born), a recognizably human form, and the fetus feels pain, cries, and even sucks his or her thumb.

There are three important points we wish to make about this human embryo. First, it is from the start *distinct* from any cell of the mother or of the father. This is clear because it is growing in its own distinct direction. Its growth is internally directed to its own survival and maturation. Second, the embryo is *human*: it has the genetic makeup characteristic of human beings. Third, and most importantly, the embryo is a *complete* or *whole* organism, though immature. The human embryo, from conception onward, is fully programmed actively to develop himself or herself to the mature stage of a human being, and, *unless prevented by disease or violence, will actually do so, despite possibly significant variation in environment* (in the mother's womb). None of the changes that occur to the embryo after fertilization, for as long as he or she survives, generates a new direction of growth. Rather, *all* of the changes (for example, those involving nutrition and environment) either facilitate or retard the internally directed growth of this persisting individual.

Sometimes it is objected that if we say human embryos are human beings, on the grounds that they have the potential to become mature humans, the same will have to be said of sperm and ova. This objection is untenable. The human embryo is radically unlike the sperm and ova, the sex cells. The sex cells are manifestly not *whole* or *complete* organisms. They are not only genetically but also functionally identifiable as parts of the male or female potential parents. They clearly are destined either to combine with an ovum or sperm or die. Even when they succeed in causing fertilization, they do not survive; rather, their genetic material enters into the composition of a distinct, new organism.

Nor are human embryos comparable to somatic cells (such as skin cells or muscle cells), though some have tried to argue that they are. Like sex cells, a somatic cell is functionally only a part of a larger organism. The human embryo, by contrast, possesses from the beginning the internal resources and active disposition to develop himself or herself to full maturity; all he or she needs is a suitable environment and nutrition. The direction of his or her growth is *not extrinsically determined*, but the embryo is internally directing his or her growth toward full maturity.

So, a human embryo (or fetus) is not something distinct from a human being; he or she is not an individual of any non-human or intermediate species. Rather, an

embryo (and fetus) is a human being at a certain (early) stage of development – the embryonic (or fetal) stage. In abortion, what is killed is a human being, a whole living member of the species *homo sapiens*, the same *kind* of entity as you or I, only at an earlier stage of development.

No-Person Arguments: The Dualist Version

Defenders of abortion may adopt different strategies to respond to these points. Most will grant that human embryos or fetuses are human beings. However, they then distinguish “human being” from “person” and claim that embryonic human beings are not (yet) *persons*. They hold that while it is wrong to kill persons, it is not always wrong to kill human beings who are not persons.

Sometimes it is argued that human beings in the embryonic stage are not persons because embryonic human beings do not exercise higher mental capacities or functions. Certain defenders of abortion (and infanticide) have argued that in order to be a person, an entity must be self-aware (Singer, 1993; Tooley, 1983; Warren, 1984). They then claim that, because human embryos and fetuses (and infants) have not yet developed self-awareness, they are not persons.

These defenders of abortion raise the question: Where does one draw the line between those who are subjects of rights and those that are not? A long tradition says that the line should be drawn at *persons*. But what is a person, if not an entity that has self-awareness, rationality, etc.?

This argument is based on a false premise. It implicitly identifies the human person with a consciousness which inhabits (or is somehow associated with) and uses a body; the truth, however, is that we human persons are particular kinds of physical organisms. The argument here under review grants that the human organism comes to be at conception, but claims nevertheless that you or I, the human person, comes to be only much later, say, when self-awareness develops. But if this human organism came to be at one time, but *I* came to be at a later time, it follows that I am one thing and this human organism with which *I* am associated is another thing.

But this is false. We are not consciousnesses that *possess or inhabit* bodies. Rather, we *are* living bodily entities. We can see this by examining the kinds of action that we perform. If a living thing performs bodily actions, then it is a physical organism. Now, those who wish to deny that we are physical organisms think of *themselves*, what each of them refers to as “*I*,” as the subject of self-conscious acts of conceptual thought and willing (what many philosophers, ourselves included, would say are non-physical acts). But one can show that this “*I*” is identical to the subject of physical, bodily actions, and so is a living, bodily being (an organism). Sensation is a bodily action. The act of seeing, for example, is an act that an animal performs with his eyeballs and his optic nerve, just as the act of walking is an act that he performs with his legs. But it is clear in the case of human individuals that it must be the same entity, the same single subject of actions, that performs the act of sensing and that performs the act of understanding. When I know, for example, that “That is a tree,” it is by my understanding, or a self-conscious intellectual act, that I apprehend what is meant by “tree,” apprehending what it is (at least in a general way). But the subject

of that proposition, what I refer to by the word “That,” is apprehended by sensation or perception. Clearly, it must be the same thing – the same I – which apprehends the predicate and the subject of a unitary judgment.

So, it is the same substantial entity, the same agent, which understands and which senses or perceives. And so what all agree is referred to by the word “I” (namely, the subject of conscious, intellectual acts) is identical with the physical organism which is the subject of bodily actions such as sensing or perceiving. Hence the entity that I am, and the entity that you are – what you and I refer to by the personal pronouns “you” and “I” – is in each case a human, physical organism (but also with nonphysical capacities). Therefore, since you and I are *essentially* physical organisms, *we* came to be when these physical organisms came to be. But, as shown above, the human organism comes to be at conception.² Thus you and I came to be at conception; we once were embryos, then fetuses, then infants, just as we were once toddlers, pre-adolescent children, adolescents, and young adults.

So, how should we use the word “person”? Are human embryos persons or not? People may stipulate different meanings for the word “person,” but we think it is clear that what we normally mean by the word “person” is that substantial entity that is referred to by personal pronouns – “I,” “you,” “she,” etc. It follows, we submit, that a person is a distinct subject with the natural capacity to reason and make free choices. That subject, in the case of human beings, is identical with the human organism, and therefore that subject comes to be when the human organism comes to be, even though it will take him or her months and even years to actualize the natural capacities to reason and make free choices, natural capacities which are already present (albeit in radical, i.e. root, form) from the beginning. So it makes no sense to say that the human organism came to be at one point but the person – you or I – came to be at some later point. To have destroyed the human organism that you are or I am even at an early stage of our lives would have been to have killed you or me.

No-Person Arguments: The Evaluative Version

Let us now consider a different argument by which some defenders of abortion seek to deny that human beings in the embryonic and fetal stages are “persons” and, as such, ought not to be killed. Unlike the argument criticized in the previous section, this argument grants that the being who is you or I came to be at conception, but contends that you and I became valuable and bearers of rights only much later, when, for example, we developed the proximate, or immediately exercisable, capacity for self-consciousness. Inasmuch as those who advance this argument concede that you and I once were human embryos, they do not identify the self or the person with a non-physical phenomenon, such as consciousness. They claim, however, that being a person is an accidental attribute. It is an accidental attribute in the way that someone’s being a musician or basketball player is an accidental attribute. Just as you come to be at one time, but become a musician or basketball player only much later, so, they say, you and I came to be when the physical organisms we are came to be, but we became persons (beings with a certain type of special value and bearers of basic rights) only at some time later (Dworkin, 1993; Thomson, 1995). Those defenders of abor-

tion whose view we discussed in the previous section disagree with the pro-life position on an ontological issue, that is, on what *kind of entity* the human embryo or fetus is. Those who advance the argument now under review, by contrast, disagree with the pro-life position on an evaluative question.

Judith Thomson argued for this position by comparing the right to life with the right to vote: “If children are allowed to develop normally they will have a right to vote; that does not show that they now have a right to vote” (1995). According to this position, it is true that we once were embryos and fetuses, but in the embryonic and fetal stages of our lives we were not yet valuable in the special way that would qualify us as having a right to life. We acquired that special kind of value and the right to life that comes with it at some point after we came into existence.

We can begin to see the error in this view by considering Thomson’s comparison of the right to life with the right to vote. Thomson fails to advert to the fact that some rights vary with respect to place, circumstances, maturity, ability, and other factors, while other rights do not. We recognize that one’s right to life does not vary with place, as does one’s right to vote. One may have the right to vote in Switzerland, but not in Mexico. Moreover, some rights and entitlements accrue to individuals only at certain times, or in certain places or situations, and others do not. But to have the right to life is to have *moral status at all*; to have the right to life, in other words, is to be the sort of entity that can have rights or entitlements to begin with. And so it is to be expected that *this* right would differ in some fundamental ways from other rights, such as a right to vote.

In particular, it is reasonable to suppose (and we give reasons for this in the next few paragraphs) that having moral status at all, as opposed to having a right to perform a specific action in a specific situation, follows from an entity’s being the *type of thing* (or substantial entity) it is. And so, just as one’s right to life does not come and go with one’s location or situation, so it does not accrue to someone in virtue of an acquired (i.e., accidental) property, capacity, skill, or disposition. Rather, this right belongs to a human being at all times that he or she exists, not just during certain stages of his or her existence, or in certain circumstances, or in virtue of additional, accidental attributes.

Our position is that we human beings have the special kind of value that makes us subjects of rights in virtue of *what* we are, not in virtue of some attribute that we acquire some time after we have come to be. Obviously, defenders of abortion cannot maintain that the accidental attribute required to have the special kind of value we ascribe to “persons” (additional to being a human individual) is an *actual* behavior. They of course do not wish to exclude from personhood people who are asleep or in reversible comas. So, the additional attribute will have to be a capacity or potentiality of some sort.³ Thus, they will have to concede that sleeping or reversibly comatose human beings will be persons because they have the potentiality or capacity for higher mental functions.

But human embryos and fetuses also possess, albeit in radical form, a capacity or potentiality for such mental functions; human beings possess this radical capacity in virtue of the kind of entity they are, and possess it by coming into being as that kind of entity (viz., a being with a rational nature). Human embryos and fetuses cannot of course *immediately* exercise these capacities. Still, they are related to these capacities

differently from, say, how a canine or feline embryo is. They are the kind of being – a natural kind, members of a biological species – which, if not prevented by extrinsic causes, in due course develops by active self-development to the point at which capacities initially possessed in root form become immediately exercisable. (Of course, the capacities in question become immediately exercisable only some months or years after the child's birth.) Each human being comes into existence possessing the internal resources and active disposition to develop the immediately exercisable capacity for higher mental functions. Only the adverse effects on them of other causes will prevent this development.

So, we must distinguish two sorts of capacity or potentiality for higher mental functions that a substantial entity might possess: first, an immediately (or nearly immediately) exercisable capacity to engage in higher mental functions; second, a basic, natural capacity to develop oneself to the point where one does perform such actions. But on what basis can one require the first sort of potentiality – as do proponents of the position under review in this section – which is an accidental attribute, and not just the second? There are three decisive reasons against supposing that the first sort of potentiality is required to qualify an entity as a bearer of the right to life.

First, the developing human being does not reach a level of maturity at which he or she performs a type of mental act that other animals do not perform – even animals such as dogs and cats – until at least several months after birth. A six-week old baby lacks the immediately (or nearly immediately) exercisable capacity to perform characteristically human mental functions. So, if full moral respect were due only to those who possess a nearly immediately exercisable capacity for characteristically human mental functions, it would follow that six-week old infants do not deserve full moral respect. If abortion were morally acceptable on the grounds that the human embryo or fetus lacks such a capacity for characteristically human mental functions, then one would be logically committed to the view that, subject to parental approval, human infants could be disposed of as well.

Second, the difference between these two types of capacity is merely a difference between stages along a continuum. The proximate or nearly immediately exercisable capacity for mental functions is only the development of an underlying potentiality that the human being possesses simply by virtue of the kind of entity it is. The capacities for reasoning, deliberating, and making choices are gradually developed, or brought towards maturation, through gestation, childhood, adolescence, and so on. But the difference between a being that deserves full moral respect and a being that does not (and can therefore legitimately be disposed of as a means of benefiting others) cannot consist only in the fact that, while both have some feature, one has more of it than the other. A mere *quantitative* difference (having more or less of the same feature, such as *the development* of a basic natural capacity) cannot by itself be a justificatory basis for treating different entities in *radically* different ways. Between the ovum and the approaching thousands of sperm, on the one hand, and the embryonic human being, on the other hand, there *is* a clear difference in kind. But between the embryonic human being and that same human being at any later stage of its maturation, there is only a difference in degree.

Note that there *is* a fundamental difference (as we showed above) between the gametes (the sperm and the ovum), on the one hand, and the human embryo and

fetus, on the other. When a human being comes to be, a substantial entity that is identical with the entity that will later reason, make free choices, and so on, begins to exist. So, those who propose an accidental characteristic as qualifying an entity as a bearer of the right to life (or as a “person” or being with “moral worth”) are *ignoring* a radical difference among groups of beings, and instead fastening onto a mere quantitative difference as the basis for treating different groups in radically different ways. In other words, there are beings a, b, c, d, e, etc. And between a’s and b’s on the one hand and c’s, d’s and e’s on the other hand, there is a *fundamental difference*, a difference in kind not just in degree. But proponents of the position that being a person is an accidental characteristic ignore that difference and pick out a mere difference in degree between, say, d’s and e’s, and make that the basis for radically different types of treatment. That violates the most basic canons of justice.

Third, being a whole human being (whether immature or not) is an either/or matter – a thing either is or is not a whole human being. But the acquired qualities that could be proposed as criteria for personhood come in varying and continuous degrees: there is an infinite number of degrees of the *development of* the basic natural capacities for self-consciousness, intelligence, or rationality. So, if human beings were worthy of full moral respect (as subjects of rights) only because of such qualities, and not in virtue of the kind of being they are, then, since such qualities come in varying degrees, no account could be given of why basic rights are not possessed by human beings in varying degrees. The proposition that all human beings are created equal would be relegated to the status of a superstition. For example, if developed self-consciousness bestowed rights, then, since some people are more self-conscious than others (that is, have developed that capacity to a greater extent than others), some people would be greater in dignity than others, and the rights of the superiors would trump those of the inferiors where the interests of the superiors could be advanced at the cost of the inferiors. This conclusion would follow no matter which of the acquired qualities generally proposed as qualifying some human beings (or human beings at some stages) for full respect were selected. Clearly, developed self-consciousness, or desires, or so on, are arbitrarily selected degrees of development of capacities that all human beings possess in (at least) radical form from the coming into existence of the human being until his or her death. So, it cannot be the case that some human beings and not others possess the special kind of value that qualifies an entity as having a basic right to life, by virtue of a certain degree of development. Rather, human beings possess that kind of value, and therefore that right, in virtue of what (i.e., the kind of being) they are; and *all* human beings – not just some, and certainly not just those who have advanced sufficiently along the developmental path as to be able immediately (or almost immediately) to exercise their capacities for characteristically human mental functions – possess that kind of value and that right.⁴

Since human beings are valuable in the way that qualifies them as having a right to life in virtue of what they are, it follows that they have that right, whatever it entails, from the point at which they come into being – and that point (as shown in our first section) is at conception.

In sum, human beings are valuable (as subjects of rights) in virtue of what they are. But what they are are human physical organisms. Human physical organisms

come to be at conception. Therefore, what is intrinsically valuable (as a subject of rights) comes to be at conception.

The Argument that Abortion is Justified as Non-intentional Killing

Some “pro-choice” philosophers have attempted to justify abortion by denying that all abortions are intentional killing. They have granted (at least for the sake of argument) that an unborn human being has a right to life but have then argued that this right does not entail that the child *in utero* is morally entitled to the use of the mother’s body for life support. In effect, their argument is that, at least in many cases, abortion is not a case of intentionally killing the child, but a choice not to provide the child with assistance, that is, a choice to expel (or “evict”) the child from the womb, despite the likelihood or certainty that expulsion (or “eviction”) will result in his or her death (Little, 1999; McDonagh, 1996; Thomson, 1971).

Various analogies have been proposed by people making this argument. The mother’s gestating a child has been compared to allowing someone the use of one’s kidneys or even to donating an organ. We are not *required* (morally or as a matter of law) to allow someone to use our kidneys, or to donate organs to others, even when they would die without this assistance (and we could survive in good health despite rendering it). Analogously, the argument continues, a woman is not morally required to allow the fetus the use of her body. We shall call this “the bodily rights argument.”

It may be objected that a woman has a special responsibility to the child she is carrying, whereas in the cases of withholding assistance to which abortion is compared there is no such special responsibility. Proponents of the bodily rights argument have replied, however, that the mother has not voluntarily assumed responsibility for the child, or a personal relationship with the child, and we have strong responsibilities to others only if we have voluntarily assumed such responsibilities (Thomson, 1971) or have consented to a personal relationship which generates such responsibilities (Little, 1999). True, the mother may have voluntarily performed an act which she knew may result in a child’s conception, but that is distinct from consenting to gestate the child if a child is conceived. And so (according to this position) it is not until the woman consents to pregnancy, or perhaps not until the parents consent to care for the child by taking the baby home from the hospital or birthing center, that the full duties of parenthood accrue to the mother (and perhaps the father).

In reply to this argument we wish to make several points. We grant that in some few cases abortion is not intentional killing, but a choice to expel the child, the child’s death being an unintended, albeit foreseen and (rightly or wrongly) accepted, side effect. However, these constitute a small minority of abortions. In the vast majority of cases, the death of the child *in utero* is precisely the object of the abortion. In most cases the end sought is to avoid being a parent; but abortion brings that about only by bringing it about that the child dies. Indeed, the attempted abortion would be considered by the woman requesting it and the abortionist performing it to have been *unsuccessful* if the child survives. In most cases abortion *is* intentional killing. Thus,

even if the bodily rights argument succeeded, it would justify only a small percentage of abortions.

Still, in some few cases abortion is chosen as a means precisely toward ending the condition of pregnancy, and the woman requesting the termination of her pregnancy would not object if somehow the child survived. A pregnant woman may have less or more serious reasons for seeking the termination of this condition, but if that is her objective, then the child's death resulting from his or her expulsion will be a side effect, rather than the means chosen. For example, an actress may wish not to be pregnant because the pregnancy will change her figure during a time in which she is filming scenes in which having a slender appearance is important; or a woman may dread the discomforts, pains, and difficulties involved in pregnancy. (Of course, in many abortions there may be mixed motives: the parties making the choice may intend both ending the condition of pregnancy and the death of the child.)

Nevertheless, while it is true that in some cases abortion is not intentional killing, it remains misleading to describe it simply as choosing not to provide bodily life support. Rather, it is actively expelling the human embryo or fetus from the womb. There is a significant moral difference between *not doing* something that would assist someone, and *doing* something that causes someone harm, even if that harm is an unintended (but foreseen) side effect. It is more difficult morally to justify the latter than it is the former. Abortion is the *act* of extracting the unborn human being from the womb – an extraction that usually rips him or her to pieces or does him or her violence in some other way.

It is true that in some cases causing death as a side effect is morally permissible. For example, in some cases it is morally right to use force to stop a potentially lethal attack on one's family or country, even if one foresees that the force used will also result in the assailant's death. Similarly, there are instances in which it is permissible to perform an act that one knows or believes will, as a side effect, cause the death of a child *in utero*. For example, if a pregnant woman is discovered to have a cancerous uterus, and this is a proximate danger to the mother's life, it can be morally right to remove the cancerous uterus with the baby in it, even if the child will die as a result. A similar situation can occur in ectopic pregnancies. But in such cases, not only is the child's death a side effect, but the mother's life is in proximate danger. It is worth noting also that in these cases *what is done* (the means) is the correction of a pathology (such as a cancerous uterus, or a ruptured uterine tube). Thus, in such cases, not only the child's death, but also the ending of the pregnancy, are side effects. So, such acts are what traditional casuistry referred to as *indirect* or *non-intentional*, abortions.

But it is also clear that not every case of causing death as a side effect is morally right. For example, if a man's daughter has a serious respiratory disease and the father is told that his continued smoking in her presence will cause her death, it would obviously be immoral for him to continue the smoking. Similarly, if a man works for a steel company in a city with significant levels of air pollution, and his child has a serious respiratory problem making the air pollution a danger to her life, certainly he should move to another city. He should move, we would say, even if that meant he had to resign a prestigious position or make a significant career change.

In both examples, (a) the parent has a special responsibility to his child, but (b) the act that would cause the child's death would avoid a harm to the parent but cause

a significantly worse harm to his child. And so, although the harm done would be a side effect, in both cases the act that caused the death would be an *unjust* act, and morally wrongful *as such*. The special responsibility of parents to their children requires that they *at least* refrain from performing acts that cause terrible harms to their children in order to avoid significantly lesser harms to themselves.

But (a) and (b) also obtain in intentional abortions (that is, those in which the removal of the child is directly sought, rather than the correction of a life-threatening pathology) even though they are not, strictly speaking, intentional killing. First, the mother has a special responsibility to her child, in virtue of being her biological mother (as does the father in virtue of his paternal relationship). The parental relationship itself – not just the voluntary acceptance of that relationship – gives rise to a special responsibility to a child.

Proponents of the bodily rights argument deny this point. Many claim that one has full parental responsibilities only if one has voluntarily assumed them. And so the child, on this view, has a right to care from his or her mother (including gestation) only if the mother has accepted her pregnancy, or perhaps only if the mother (and/or the father?) has in some way voluntarily begun a deep personal relationship with the child (Little, 1999).

But suppose a mother takes her baby home after giving birth, but the only reason she did not get an abortion was that she could not afford one. Or suppose she lives in a society where abortion is not available (perhaps very few physicians are willing to do the grisly deed). She and her husband take the child home only because they had no alternative. Moreover, suppose that in their society people are not waiting in line to adopt a newborn baby. And so the baby is several days old before anything can be done. If they abandon the baby and the baby is found, she will simply be returned to them. In such a case the parents have not voluntarily assumed responsibility; nor have they consented to a personal relationship with the child. But it would surely be wrong for these parents to abandon their baby in the woods (perhaps the only feasible way of ensuring she is not returned), even though the baby's death would be only a side effect. Clearly, we recognize that parents do have a responsibility to make sacrifices for their children, even if they have not voluntarily assumed such responsibilities, or given their consent to the personal relationship with the child.

The bodily rights argument implicitly supposes that we have a primordial right to construct a life simply as we please, and that others have claims on us only very minimally or through our (at least tacit) consent to a certain sort of relationship with them. On the contrary, we are by nature members of communities. Our moral goodness or character consists to a large extent (though not solely) in contributing to the communities of which we are members. We ought to act for our genuine good or flourishing (we take that as a basic ethical principle), but our flourishing involves being in communion with others. And communion with others of itself – even if we find ourselves united with others because of a physical or social relationship which precedes our consent – entails duties or responsibilities. Moreover, the contribution we are morally required to make to others will likely bring each of us some discomfort and pain. This is not to say that we should simply ignore our own good, for the sake of others. Rather, since what (and who) I am is in part constituted by various

relationships with others, not all of which are initiated by my will, my genuine good includes the contributions I make to the relationships in which I participate. Thus, the life we constitute by our free choices should be in large part a life of mutual reciprocity with others.

For example, I may wish to cultivate my talent to write and so I may want to spend hours each day reading and writing. Or I may wish to develop my athletic abilities and so I may want to spend hours every day on the baseball field. But if I am a father of minor children, and have an adequate paying job working (say) in a coal mine, then my clear duty is to keep that job. Similarly, if one's girlfriend finds she is pregnant and one is the father, then one might also be morally required to continue one's work in the mine (or mill, factory, warehouse, etc.).

In other words, I have a duty to do something with my life that contributes to the good of the human community, but that general duty becomes specified by my particular situation. It becomes specified by the connection or closeness to me of those who are in need. We acquire special responsibilities toward people, not only by *consenting* to contracts or relationships with them, but also by having various types of union with them. So, we have special responsibilities to those people with whom we are closely united. For example, we have special responsibilities to our parents, and brothers and sisters, even though we did not choose them.

The physical unity or continuity of children to their parents is unique. The child is brought into being out of the bodily unity and bodies of the mother and the father. The mother and the father are in a certain sense prolonged or continued in their offspring. So, there is a natural unity of the mother with her child, and a natural unity of the father with his child. Since we have special responsibilities to those with whom we are closely united, it follows that we in fact do have a special responsibility to our children anterior to our having voluntarily assumed such responsibility or consented to the relationship.⁵

The second point is this: in the types of case we are considering, the harm caused (death) is much worse than the harms avoided (the difficulties in pregnancy). Pregnancy can involve severe impositions, but it is not nearly as bad as death – which is total and irreversible. One needn't make light of the burdens of pregnancy to acknowledge that the harm that is death is in a different category altogether.

The burdens of pregnancy include physical difficulties and the pain of labor, and can include significant financial costs, psychological burdens, and interference with autonomy and the pursuit of other important goals (McDonagh, 1996: ch. 5). These costs are not inconsiderable. Partly for that reason, we owe our mothers gratitude for carrying and giving birth to us. However, where pregnancy does not place a woman's life in jeopardy or threaten grave and lasting damage to her physical health, the harm done to other goods is not total. Moreover, most of the harms involved in pregnancy are not irreversible: pregnancy is a nine-month task – if the woman and man are not in a good position to raise the child, adoption is a possibility. So the difficulties of pregnancy, considered together, are in a different and lesser category than death. Death is not just worse in degree than the difficulties involved in pregnancy; it is worse in kind.

It has been argued, however, that pregnancy can involve a unique type of burden. It has been argued that the *intimacy* involved in pregnancy is such that if the woman

must remain pregnant without her consent then there is inflicted on her a unique and serious harm. Just as sex with consent can be a desired experience but sex without consent is a violation of bodily integrity, so (the argument continues) pregnancy involves such a close physical intertwinement with the fetus that not to allow abortion is analogous to rape – it involves an enforced intimacy (Boonin, 2003: 84; Little, 1999: 300–3).

However, this argument is based on a false analogy. Where the pregnancy is unwanted, the baby’s “occupying” the mother’s womb may involve a harm; but the child is committing no injustice against her. The baby is not forcing himself or herself on the woman, but is simply growing and developing in a way quite natural to him or her. The baby is not performing any action that could in any way be construed as aimed at violating the mother.⁶

It is true that the fulfillment of the duty of a mother to her child (during gestation) is unique and in many cases does involve a great sacrifice. The argument we have presented, however, is that being a mother *does* generate a special responsibility, and that the sacrifice morally required of the mother is less burdensome than the harm that would be done to the child by expelling the child, causing his or her death, to escape that responsibility. Our argument equally entails responsibilities for the father of the child. His duty does not involve as direct a bodily relationship with the child as the mother’s, but it may be equally or even more burdensome. In certain circumstances, his obligation to care for the child (and the child’s mother), and especially his obligation to provide financial support, may severely limit his freedom and even require months or, indeed, years, of extremely burdensome physical labor. Historically, many men have rightly seen that their basic responsibility to their family (and country) has entailed risking, and in many cases, losing, their lives. Different people in different circumstances, with different talents, will have different responsibilities. It is no argument against any of these responsibilities to point out their distinctness.

So, the burden of carrying the baby, for all its distinctness, is significantly less than the harm the baby would suffer by being killed; the mother and father have a special responsibility to the child; it follows that intentional abortion (even in the few cases where the baby’s death is an unintended but foreseen side effect) is unjust and therefore objectively immoral.

Notes

- 1 See, for example: Carlson (1994: chs. 2–4); Gilbert (2003: 183–220, 363–90); Larson (2001: chs. 1–2); Moore and Persaud (2003: chs. 1–6); Muller (1997: chs. 1–2); O’Rahilly and Mueller (2000: chs. 3–4).
- 2 For a discussion of the issues raised by twinning and cloning, see George and Lobo (2002).
- 3 Some defenders of abortion have seen the damaging implications of this point for their position (Stretton, 2004), and have struggled to find a way around it. There are two leading proposals. The first is to suggest a mean between a capacity and an actual behavior, such as a disposition. But a disposition is just the development or specification of a capacity and so raises the unanswerable question of why just that much development, and not more or

less, should be required. The second proposal is to assert that the historical fact of someone having exercised a capacity (say, for conceptual thought) confers on her a right to life even if she does not now have the immediately exercisable capacity. But suppose we have baby Susan who has developed a brain and gained sufficient experience to the point that just now she has the immediately exercisable capacity for conceptual thought, but she has not yet exercised it. Why should she be in a wholly different category than say, baby Mary, who is just like Susan except she did actually have a conceptual thought? Neither proposal can bear the moral weight assigned to it. Both offer criteria that are wholly arbitrary.

- 4 In arguing against an article by Lee, Dean Stretton claims that the basic natural capacity of rationality also comes in degrees, and that therefore the argument we are presenting against the position that moral worth is based on having some accidental characteristic would apply to our position also (Stretton, 2004). But this is to miss the important distinction between having a basic natural capacity (of which there are no degrees, since one either has it or one doesn't), and the *development of that capacity* (of which there are infinite degrees).
- 5 David Boonin claims, in reply to this argument – in an earlier and less developed form, presented by Lee (1996: 122) – that it is not clear that it is impermissible for a woman to destroy what is a part of, or a continuation of, herself. He then says that to the extent the unborn human being is united to her in that way, “it would if anything seem that her act is *easier* to justify than if this claim were not true” (2003: 230). But Boonin fails to grasp the point of the argument (perhaps understandably since it was not expressed very clearly in the earlier work he is discussing). The unity of the child to the mother is the basis for this child being related to the woman in a different way from how other children are. We ought to pursue our own good *and the good of others with whom we are united in various ways*. If that is so, then the closer someone is united to us, the deeper and more extensive our responsibility to the person will be.
- 6 In some sense being bodily “occupied” when one does not wish to be is a harm; however, just as the child does not (as explained in the text), neither does the state inflict this harm on the woman, in circumstances in which the state prohibits abortion. By prohibiting abortion the state would only prevent the woman from performing an act (forcibly detaching the child from her) that would unjustly kill this developing child, who is an innocent party.

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