

to your physical health is great, and exceeds that normally attendant upon childbirth). If, however, the risks normally attendant upon childbirth happen to increase so that now 90 per cent will end in the death of the pregnant person, this risk to your health — which is the same as before — will *not* serve to justify an abortion.

Conclusion

Currently the law in New Zealand forbids abortions under all but the most extreme circumstances. Yet abortions are performed in New Zealand with as much regularity as they are in countries — such as the United States and Canada — in which there is a right to abortion. Interestingly, then, there exists a radical mismatch between the law and practice on this issue. The law assumes a very conservative position on abortion, in which the fetus is assumed to have a significant moral status, and its destruction is assumed to require weighty justification. By contrast, many others — including, it would seem, many of the certifying consultants — believe either that the fetus does not have a significant moral status, or that it does, but its destruction does not require that a woman meet the very demanding conditions laid down in the law.

What I have tried to show, above, is that there exists a good, although far from decisive, case for thinking that the fetus has a significant moral status from conception. However, by contrast, the case for thinking that a woman needs to meet the conditions outlined in the current law before being allowed an abortion is, in my view anyway, very poor. Numerous thought experiments strongly imply that, even if the fetus enjoys the same moral status as one of us, it is well beyond the demands of duty to undergo a pregnancy and birth in order to keep it alive.

Furthermore, if my reason is anything to go by, it seems positively immoral — under most imaginable circumstances anyway — to

prevent those who wish no longer to bear the burdens of pregnancy and birth to escape them, or to insist that they must bear them until or unless they present an extreme and unusual threat to their health that would not otherwise attend pregnancy and childbirth.

- 1 Quoted in Amy Dixon, 'Authorisation of Abortion for a "Serious Danger to Mental Health": Would the Practice Stand Up to the Judicial Test?,' *Victoria University Law Review* 43 (2012): 289–320 at 290.
- 2 *Ibid.*
- 3 Quoted in Susan Sherwin, 'Abortion: A Feminist Perspective,' in *Social Ethics: Morality and Social Policy*, ed. Thomas A. Mappes and Jane S. Zembaty (New York: McGraw-Hill, 2002), 53–59, at 54.
- 4 Don Marquis, 'Why Abortion is Immoral,' in *Social Ethics: Morality and Social Policy*, in *ibid.*, 22–28, at 24.
- 5 Michael Tooley, 'Abortion and Infanticide,' in *Applied Ethics*, ed. Peter Singer (Oxford: Oxford University Press, 1986), 57–85, at 60–62.
- 6 Annette Baier, *Postures of the Mind: Essays on Mind and Morals* (Minneapolis: University of Minnesota Press, 1985), 84.
- 7 Bertrand Russell, *The Analysis of Mind* (London: Allen and Unwin, 1921), 159–160.
- 8 Tooley, 'Abortion and Infanticide,' at 69.
- 9 Quoted in Peter Singer, 'All Animals Are Equal,' in *Applied Ethics*, ed. Peter Singer (Oxford: Oxford University Press, 1986), 215–228, at 221.
- 10 See Thomas Nagel, 'What Is It Like To Be a Bat?' *The Philosophical Review* 83(4) (1974): 435–450.
- 11 Mary Anne Warren, 'On the Moral and Legal Status of Abortion,' in *Social Ethics: Morality and Social Policy*, ed. Thomas A. Mappes and Jane S. Zembaty (New York: McGraw-Hill, 2002), 14–22, at 19–20.
- 12 Judith Jarvis Thomson, 'A Defence of Abortion,' in *Applied Ethics*, ed. Peter Singer (Oxford: Oxford University Press, 1986), 37–56, at 38–39.
- 13 *Ibid.*, 39.
- 14 *Ibid.*, 49.
- 15 Robert Nozick, *Anarchy, State and Utopia* (Oxford: Basil Blackwell, 1974), 34.