
*A Defense of Abortion*Judith Jarvis Thomson

Consider the argument that because a fetus is an innocent human being, and killing an innocent human being is always wrong, abortion is always wrong. Some would respond by denying that the earliest embryo is a human person, but putting that issue aside, is killing an innocent human being always wrong? In an article that has given rise to much discussion, Judith Jarvis Thomson, Professor Emerita at the Massachusetts Institute of Technology, argues that while people have a right not to be killed unjustly, they do not have an unqualified right to life. Hence even if the human fetus is a person, abortion may be morally permissible.

Most opposition to abortion relies on the premise that the fetus is a human being, a person, from the moment of conception. The premise is argued for, but, as I think, not well. Take, for example, the most common argument. We are asked to notice that the development of a human being from conception through birth into childhood is continuous; then it is said that to draw a line, to choose a point in this development and say “before this point the thing is not a person, after this point it is a person” is to make an arbitrary choice, a choice for which in the nature of things no good reason can be given. It is concluded that the fetus is, or anyway that we had better say it is, a person from the moment of conception. But this conclusion does not follow. Similar things might be said about the development of an acorn into an oak tree, and it does not follow that acorns are oak trees, or that we had better say they are. Arguments of this form are sometimes called “slippery slope arguments”—the phrase is perhaps self-explanatory—and it is dismaying that opponents of abortion rely on them so heavily and uncritically.

I am inclined to agree, however, that the prospects for "drawing a line" in the development of the fetus look dim. I am inclined to think also that we shall probably have to agree that the fetus has already become a human person well before birth. Indeed, it comes as a surprise when one first learns how early in its life it begins to acquire human characteristics. By the tenth week, for example, it already has a face, arms and legs, fingers and toes; it has internal organs, and brain activity is detectable. On the other hand, I think that the premise is false, that the fetus is not a person from the moment of conception. A newly fertilized ovum, a newly implanted clump of cells, is no more a person than an acorn is an oak tree. But I shall not discuss any of this. For it seems to me to be of great interest to ask what happens if, for the sake of argument, we allow the premise. How, precisely, are we supposed to get from there to the conclusion that abortion is morally impermissible? Opponents of abortion commonly spend most of their time establishing that the fetus is a person, and hardly any time explaining the step from there to the impermissibility of abortion. Perhaps they think the step too simple and obvious to require much comment. Or perhaps instead they are simply being economical in argument. Many of those who defend abortion rely on the premise that the fetus is not a person, but only a bit of tissue that will become a person at birth; and why pay out more arguments than you have to? Whatever the explanation, I suggest that the step they take is neither easy nor obvious, that it calls for closer examination than it is commonly given, and that when we do give it this closer examination we shall feel inclined to reject it.

I propose, then, that we grant that the fetus is a person from the moment of conception. How does the argument go from here? Something like this, I take it. Every person has a right to life. So the fetus has a right to life. No doubt the mother has a right to decide what shall happen in and to her body; everyone would grant that. But surely a person's right to life is stronger and more stringent than the mother's right to decide what happens in and to her body, and so outweighs it. So the fetus may not be killed; an abortion may not be performed.

It sounds plausible. But now let me ask you to imagine this. You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you,

and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, "Look, we're sorry the Society of Music Lovers did this to you—we would never have permitted it if we had known. But still, they did it, and the violinist now is plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you." Is it morally incumbent on you to accede to this situation? No doubt it would be very nice of you if you did, a great kindness. But do you *have* to accede to it? What if it were not nine months, but nine years? Or longer still? What if the director of the hospital says, "Tough luck, I agree, but you've now got to stay in bed, with the violinist plugged into you, for the rest of your life. Because remember this. All persons have a right to life, and violinists are persons. Granted you have a right to decide what happens in and to your body, but a person's right to life outweighs your right to decide what happens in and to your body. So you cannot ever be unplugged from him." I imagine you would regard this as outrageous, which suggests that something really is wrong with that plausible-sounding argument I mentioned a moment ago.

In this case, of course, you were kidnapped; you didn't volunteer for the operation that plugged the violinist into your kidneys. Can those who oppose abortion on the ground I mentioned make an exception for a pregnancy due to rape? Certainly. They can say that persons have a right to life only if they didn't come into existence because of rape; or they can say that all persons have a right to life, but that some have less of a right to life than others, in particular, that those who came into existence because of rape have less. But these statements have a rather unpleasant sound. Surely the question of whether you have a right to life at all, or how much of it you have, shouldn't turn on the question of whether or not you are the product of a rape. And in fact the people who oppose abortion on the ground I mentioned do not make this distinction, and hence do not make an exception in case of rape.

Nor do they make an exception for a case in which the mother has to spend the nine months of her pregnancy in bed. They would agree that would be a great pity, and hard on the mother; but all the same, all persons have a right to life, the fetus is a person, and so on. I suspect, in fact, that they would not make an exception for a case in which, miraculously enough, the pregnancy went on for nine years, or even the rest of the mother's life.

Some won't even make an exception for a case in which continuation of the pregnancy is likely to shorten the mother's life; they regard abortion as impermissible even to save the mother's life. Such cases are nowadays very rare, and many opponents of abortion do not accept this extreme view. All the same, it is a good place to begin: a number of points of interest come out in respect to it.

1. Let us call the view that abortion is impermissible even to save the mother's life "the extreme view." I want to suggest first that it does not issue from the argument I mentioned earlier without the addition of some fairly powerful premises. Suppose a woman has become pregnant, and now learns that she has a cardiac condition such that she will die if she carries the baby to term. What may be done for her? The fetus, being a person, has a right to life, but as the mother is a person too, so has she a right to life. Presumably they have an equal right to life. How is it supposed to come out that an abortion may not be performed? If mother and child have an equal right to life, shouldn't we perhaps flip a coin? Or should we add to the mother's right to life her right to decide what happens in and to her body, which everybody seems to be ready to grant—the sum of her rights now outweighing the fetus' right to life?

The most familiar argument here is the following: We are told that performing the abortion would be directly killing¹ the child, whereas doing nothing would not be killing the mother, but only letting her die. Moreover, in killing the child, one would be killing an innocent person, for the child has committed no crime, and is not aiming at his mother's death. And then there are a variety of ways in which this might be continued. (1) But as directly killing an innocent person is always and absolutely impermissible, an abortion may not be performed. Or, (2) as directly killing an innocent person is murder, and murder is always and absolutely impermissible, an abortion may not be performed. Or, (3) as one's duty to refrain from directly killing an innocent person is more stringent than one's duty to keep a person from dying, an abortion may not be performed. Or, (4) if one's only options are directly killing an innocent person or letting a person die, one must prefer letting the person die, and thus an abortion may not be performed.²

Some people seem to have thought that these are not further premises which must be added if the conclusion is to be reached, but that they follow from the very fact that an innocent person has a right to life. But this seems to me to be a mistake, and perhaps the simplest

way to show this is to bring out that while we must certainly grant that innocent persons have a right to life, the theses in (1) through (4) are all false. Take (2), for example. If directly killing an innocent person is murder, and thus is impermissible, then the mother's directly killing the innocent person inside her is murder, and thus is impermissible. But it cannot seriously be thought to be murder if the mother performs an abortion on herself to save her life. It cannot seriously be said that she *must* refrain, that she *must* sit passively by and wait for her death. Let us look again at the case of you and the violinist. There you are, in bed with the violinist, and the director of the hospital says to you, "It's all most distressing, and I deeply sympathize, but you see this is putting an additional strain on your kidneys, and you'll be dead within the month. But you *have* to stay where you are all the same. Because unplugging you would be directly killing an innocent violinist, and that's murder, and that's impermissible." If anything in the world is true, it is that you do not commit murder, you do not do what is impermissible, if you reach around to your back and unplug yourself from that violinist to save your life.

The main focus of attention in writings on abortion has been on what a third party may or may not do in answer to a request from a woman for an abortion. This is in a way understandable. Things being as they are, there isn't much a woman can safely do to abort herself. So the question asked is what a third party may do, and what the mother may do, if it is mentioned at all, is deduced, almost as an afterthought, from what it is concluded that third parties may do. But it seems to me that to treat the matter in this way is to refuse to grant to the mother that very status of person which is so firmly insisted on for the fetus. For we cannot simply read off what a person may do from what a third party may do. Suppose you find yourself trapped in a tiny house with a growing child. I mean a very tiny house, and a rapidly growing child—you are already up against the wall of the house and in a few minutes you'll be crushed to death. The child on the other hand won't be crushed to death; if nothing is done to stop him from growing he'll be hurt, but in the end he'll simply burst open the house and walk out a free man. Now I could well understand it if a bystander were to say, "There's nothing we can do for you. We cannot choose between your life and his, we cannot be the ones to decide who is to live, we cannot intervene." But it cannot be concluded that you too can do nothing, that you cannot attack it to save your life. However innocent the child may be, you do not have to wait passively while it crushes you to death. Perhaps a pregnant woman is vaguely

felt to have the status of house, to which we don't allow the right of self-defense. But if the woman houses the child, it should be remembered that she is a person who houses it.

I should perhaps stop to say explicitly that I am not claiming that people have a right to do anything whatever to save their lives. I think, rather, that there are drastic limits to the right of self-defense. If someone threatens you with death unless you torture someone else to death, I think you have not the right, even to save your life, to do so. But the case under consideration here is very different. In our case there are only two people involved, one whose life is threatened, and one who threatens it. Both are innocent: the one who is threatened is not threatened because of any fault, the one who threatens does not threaten because of any fault. For this reason we may feel that we bystanders cannot intervene. But the person threatened can.

In sum, a woman surely can defend her life against the threat to it posed by the unborn child, even if doing so involves its death. And this shows not merely that the theses in (1) through (4) are false; it shows also that the extreme view of abortion is false, and so we need not canvass any other possible ways of arriving at it from the argument I mentioned at the outset.

2. The extreme view could of course be weakened to say that while abortion is permissible to save the mother's life, it may not be performed by a third party, but only by the mother herself. But this cannot be right either. For what we have to keep in mind is that the mother and the unborn child are not like two tenants in a small house which has, by an unfortunate mistake, been rented to both: the mother *owns* the house. The fact that she does adds to the offensiveness of deducing that the mother can do nothing from the supposition that third parties can do nothing. But it does more than this: it casts a bright light on the supposition that third parties can do nothing. Certainly it lets us see that a third party who says "I cannot choose between you" is fooling himself if he thinks this is impartiality. If Jones has found and fastened on a certain coat, which he needs to keep him from freezing, but which Smith also needs to keep him from freezing, then it is not impartiality that says "I cannot choose between you" when Smith owns the coat. Women have said again and again, "This body is *my* body!" and they have reason to feel angry, reason to feel that it has been like shouting into the wind. Smith, after all, is hardly likely to bless us if we say to him, "Of course it's your coat, anybody would grant that it is. But no one may choose between you and Jones who is to have it."

We should really ask what it is that says "no one may choose" in the face of the fact that the body that houses the child is the mother's body. It may be simply a failure to appreciate this fact. But it may be something more interesting, namely, the sense that one has a right to refuse to lay hands on people, even where it would be just and fair to do so, even where justice seems to require that somebody do so. Thus justice might call for somebody to get Smith's coat back from Jones, and yet you have a right to refuse to be the one to lay hands on Jones, a right to refuse to do physical violence to him. This, I think, must be granted. But then what should be said is not "no one may choose," but only "I cannot choose," and indeed not even this, but "I will not *act*," leaving it open that somebody else can or should, and in particular that anyone in a position of authority, with the job of securing people's rights, both can and should. So this is no difficulty. I have not been arguing that any given third party must accede to the mother's request that he perform an abortion to save her life, but only that he may.

I suppose that in some views of human life the mother's body is only on loan to her, the loan not being one which gives her any prior claim to it. One who held this view might well think it impartiality to say "I cannot choose." But I shall simply ignore this possibility. My own view is that if a human being has any just, prior claim to anything at all, he has a just, prior claim to his own body. And perhaps this needn't be argued for here anyway, since, as I mentioned, the arguments against abortion we are looking at do grant that the woman has a right to decide what happens in and to her body.

But although they do grant it, I have tried to show that they do not take seriously what is done in granting it. I suggest the same thing will reappear even more clearly when we turn away from cases in which the mother's life is at stake, and attend, as I propose we now do, to the vastly more common cases in which a woman wants an abortion for some less weighty reason than preserving her own life.

3. Where the mother's life is not at stake, the argument I mentioned at the outset seems to have a much stronger pull. "Everyone has a right to life, so the unborn person has a right to life." And isn't the child's right to life weightier than anything other than the mother's own right to life, which she might put forward as ground for an abortion?

This argument treats the right to life as if it were unproblematic. It is not, and this seems to me to be precisely the source of the mistake.

For we should now, at long last, ask what it comes to, to have a right to life. In some views having a right to life includes having a right to be given at least the bare minimum one needs for continued life. But suppose that what in fact is the bare minimum a man needs for continued life is something he has no right at all to be given. If I am sick unto death, and the only thing that will save my life is the touch of Henry Fonda's cool hand on my fevered brow, then all the same, I have no right to be given the touch of Henry Fonda's cool hand on my fevered brow. It would be frightfully nice of him to fly in from the West Coast to provide it. It would be less nice, though no doubt well meant, if my friends flew out to the West Coast and carried Henry Fonda back with them. But I have no right at all against anybody that he should do this for me. Or again, to return to the story I told earlier, the fact that for continued life that violinist needs the continued use of your kidneys does not establish that he has a right to be given the continued use of your kidneys. He certainly has no right against you that *you* should give him continued use of your kidneys. For nobody has any right to use your kidneys unless you give him such a right; and nobody has the right against you that you shall give him this right—if you do allow him to go on using your kidneys, this is a kindness on your part, and not something he can claim from you as his due. Nor has he any right against anybody else that *they* should give him continued use of your kidneys. Certainly he had no right against the Society of Music Lovers that they should plug him into you in the first place. And if you now start to unplug yourself, having learned that you will otherwise have to spend nine years in bed with him, there is nobody in the world who must try to prevent you, in order to see to it that he is given something he has a right to be given.

Some people are rather stricter about the right to life. In their view, it does not include the right to be given anything, but amounts to, and only to, the right not to be killed by anybody. But here a related difficulty arises. If everybody is to refrain from killing that violinist, then everybody must refrain from doing a great many different sorts of things. Everybody must refrain from slitting his throat, everybody must refrain from shooting him—and everybody must refrain from unplugging you from him. But does he have a right against everybody that they shall refrain from unplugging you from him? To refrain from doing this is to allow him to continue to use your kidneys. It could be argued that he has a right against us that *we* should allow him to continue to use your kidneys. That is, while he had no right against us that we should give him the use of your kidneys, it

might be argued that he anyway has a right against us that we shall not now intervene and deprive him of the use of your kidneys. I shall come back to third-party interventions later. But certainly the violinist has no right against you that *you* shall allow him to continue to use your kidneys. As I said, if you do allow him to continue to use them, it is a kindness on your part, and not something you owe him.

The difficulty I point to here is not peculiar to the right to life. It reappears in connection with all the other natural rights; and it is something which an adequate account of rights must deal with. For present purposes it is enough just to draw attention to it. But I would stress that I am not arguing that people do not have a right to life—quite to the contrary, it seems to me that the primary control we must place on the acceptability of an account of rights is that it should turn out in that account to be a truth that all persons have a right to life. I am arguing only that having a right to life does not guarantee having either a right to be given the use of or a right to be allowed continued use of another person's body—even if one needs it for life itself. So the right to life will not serve the opponents of abortion in the very simple and clear way in which they seem to have thought it would.

4. There is another way to bring out the difficulty. In the most ordinary sort of case, to deprive someone of what he has a right to is to treat him unjustly. Suppose a boy and his small brother are jointly given a box of chocolates for Christmas. If the older boy takes the box and refuses to give his brother any of the chocolates, he is unjust to him, for the brother has been given a right to half of them. But suppose that, having learned that otherwise it means nine years in bed with that violinist, you unplug yourself from him. You surely are not being unjust to him, for you gave him no right to use your kidneys, and no one else can have given him any such right. But we have to notice that in unplugging yourself, you are killing him; and violinists, like everybody else, have a right to life, and thus in the view we were considering just now, the right not to be killed. So here you do what he supposedly has a right you shall not do, but you do not act unjustly to him in doing it.

The emendation which may be made at this point is this: the right to life consists not in the right not to be killed, but rather in the right not to be killed unjustly. This runs a risk of circularity, but never mind; it would enable us to square the fact that the violinist has a right to life with the fact that you do not act unjustly toward him in unplugging yourself, thereby killing him. For if you do not kill him

unjustly, you do not violate his right to life, and so it is no wonder you do him no injustice.

But if this emendation is accepted, the gap in the argument against abortion stares us plainly in the face: it is by no means enough to show that the fetus is a person, and to remind us that all persons have a right to life—we need to be shown also that killing the fetus violates its right to life, i.e., that abortion is unjust killing. And is it?

I suppose we may take it as a datum that in a case of pregnancy due to rape the mother has not given the unborn person a right to the use of her body for food and shelter. Indeed, in what pregnancy could it be supposed that the mother has given the unborn person such a right? It is not as if there were unborn persons drifting about the world, to whom a woman who wants a child says, "I invite you in."

But it might be argued that there are other ways one can have acquired a right to the use of another person's body than by having been invited to use it by that person. Suppose a woman voluntarily indulges in intercourse, knowing of the chance it will issue in pregnancy, and then she does become pregnant; is she not in part responsible for the presence, in fact the very existence, of the unborn person inside her? No doubt she did not invite it in. But doesn't her partial responsibility for its being there itself give it a right to the use of her body? If so, then her aborting it would be more like the boy's taking away the chocolates, and less like your unplugging yourself from the violinist—doing so would be depriving it of what it does have a right to, and thus would be doing it an injustice.

And then, too, it might be asked whether or not she can kill it even to save her own life: If she voluntarily called it into existence, how can she now kill it, even in self-defense?

The first thing to be said about this is that it is something new. Opponents of abortion have been so concerned to make out the independence of the fetus, in order to establish that it has a right to life, just as its mother does, that they have tended to overlook the possible support they might gain from making out that the fetus is *dependent* on the mother, in order to establish that she has a special kind of responsibility for it, a responsibility that gives it rights against her which are not possessed by any independent person—such as an ailing violinist who is a stranger to her.

On the other hand, this argument would give the unborn person a right to its mother's body only if her pregnancy resulted from a voluntary act, undertaken in full knowledge of the chance a pregnancy

might result from it. It would leave out entirely the unborn person whose existence is due to rape. Pending the availability of some further argument, then, we would be left with the conclusion that unborn persons whose existence is due to rape have no right to the use of their mothers' bodies, and thus that aborting them is not depriving them of anything they have a right to and hence is not unjust killing.

And we should also notice that it is not at all plain that this argument really does go even as far as it purports to. For there are cases and cases, and the details make a difference. If the room is stuffy, and I therefore open a window to air it, and a burglar climbs in, it would be absurd to say, "Ah, now he can stay, she's given him a right to the use of her house—for she is partially responsible for his presence there, having voluntarily done what enabled him to get in, in full knowledge that there are such things as burglars, and that burglars burgle." It would be still more absurd to say this if I had had bars installed outside my windows, precisely to prevent burglars from getting in, and a burglar got in only because of a defect in the bars. It remains equally absurd if we imagine it is not a burglar who climbs in, but an innocent person who blunders or falls in. Again, suppose it were like this: people-seeds drift about in the air like pollen, and if you open your windows, one may drift in and take root in your carpets or upholstery. You don't want children, so you fix up your windows with fine mesh screens, the very best you can buy. As can happen, however, and on very, very rare occasions does happen, one of the screens is defective; and a seed drifts in and takes root. Does the person-plant who now develops have a right to the use of your house? Surely not—despite the fact that you voluntarily opened your windows, you knowingly kept carpets and upholstered furniture, and you knew that screens were sometimes defective. Someone may argue that you are responsible for its rooting, that it does have a right to your house, because after all you *could* have lived out your life with bare floors and furniture, or with sealed windows and doors. But this won't do—for by the same token anyone can avoid a pregnancy due to rape by having a hysterectomy, or anyway by never leaving home without a (reliable!) army.

It seems to me that the argument we are looking at can establish at most that there are *some* cases in which the unborn person has a right to the use of its mother's body, and therefore *some* cases in which abortion is unjust killing. There is room for much discussion and argument as to precisely which, if any. But I think we should sidestep

this issue and leave it open, for at any rate the argument certainly does not establish that all abortion is unjust killing.

5. There is room for yet another argument here, however. We surely must all grant that there may be cases in which it would be morally indecent to detach a person from your body at the cost of his life. Suppose you learn that what the violinist needs is not nine years of your life, but only one hour: all you need do to save his life is to spend one hour in that bed with him. Suppose also that letting him use your kidneys for that one hour would not affect your health in the slightest. Admittedly you were kidnapped. Admittedly you did not give anyone permission to plug him into you. Nevertheless it seems to me plain you *ought* to allow him to use your kidneys for that hour—it would be indecent to refuse.

Again, suppose pregnancy lasted only an hour, and constituted no threat to life or health. And suppose that a woman becomes pregnant as a result of rape. Admittedly she did not voluntarily do anything to bring about the existence of a child. Admittedly she did nothing to which would give the unborn person a right to the use of her body. All the same it might well be said, as in the newly emended violinist story, that she *ought* to allow it to remain for that hour—that it would be indecent of her to refuse.

Now some people are inclined to use the term “right” in such a way that it follows from the fact that you ought to allow a person to use your body for the hour he needs, that he has a right to use your body for the hour he needs, even though he has not been given that right by any person or act. They may say that it follows also that if you refuse, you act unjustly toward him. This use of the term is perhaps so common that it cannot be called wrong; nevertheless it seems to me to be an unfortunate loosening of what we would do better to keep a tight rein on. Suppose that box of chocolates I mentioned earlier had not been given to both boys jointly, but was given only to the older boy. There he sits, stolidly eating his way through the box, his small brother watching enviously. Here we are likely to say, “You ought not to be so mean. You ought to give your brother some of those chocolates.” My own view is that it just does not follow from the truth of this that the brother has any right to any of the chocolates. If the boy refuses to give his brother any, he is greedy, stingy, callous—but not unjust. I suppose that the people I have in mind will say it does follow that the brother has a right to some of the chocolates, and thus that the boy does act unjustly if he refuses to give his brother any. But the effect of saying this is to obscure what we should keep

distinct, namely, the difference between the boy's refusal in this case and the boy's refusal in the earlier case, in which the box was given to both boys jointly, and in which the small brother thus had what was from any point of view clear title to half.

A further objection to so using the term “right” that from the fact that A ought to do a thing for B, it follows that B has a right against A that A do it for him, is that it is going to make the question of whether or not a man has a right to a thing turn on how easy it is to provide him with it; and this seems not merely unfortunate, but morally unacceptable. Take the case of Henry Fonda again. I said earlier that I had no right to the touch of his cool hand on my fevered brow, even though I needed it to save my life. I said it would be frightfully nice of him to fly in from the West Coast to provide me with it, but that I had no right against him that he should do so. But suppose he isn't on the West Coast. Suppose he has only to walk across the room, place a hand briefly on my brow—and lo, my life is saved. Then surely he ought to do it, it would be indecent to refuse. Is it to be said, “Ah, well, it follows that in this case she has a right to the touch of his hand on her brow, and so it would be an injustice in him to refuse”? So that I have a right to it when it is easy for him to provide it, though no right when it's hard? It's rather a shocking idea that anyone's rights should fade away and disappear as it gets harder and harder to accord them to him.

So my own view is that even though you ought to let the violinist use your kidneys for the one hour he needs, we should not conclude that he has a right to do so—we should say that if you refuse, you are, like the boy who owns all the chocolates and will give none away, self-centered and callous, indecent in fact, but not unjust. And similarly, that even supposing a case in which a woman pregnant due to rape ought to allow the unborn person to use her body for the hour he needs, we should not conclude that he has a right to do so; we should conclude that she is self-centered, callous, indecent, but not unjust, if she refuses. The complaints are no less grave; they are just different. However, there is no need to insist on this point. If anyone does wish to deduce “he has a right” from “you ought,” then all the same he must surely grant that there are cases in which it is not morally required of you that you allow that violinist to use your kidneys, and in which he does not have a right to use them, and in which you do not do him an injustice if you refuse. And so also for mother and unborn child. Except in such cases as the unborn person has a right to demand it—and we were leaving open the possibility that there may be such cases—nobody is morally *required* to make large sacrifices, of health,

of all other interests and concerns, of all other duties and commitments, for nine years, or even for nine months, in order to keep another person alive.

6. We have in fact to distinguish between two kinds of Samaritan: the Good Samaritan and what we might call the Minimally Decent Samaritan. The story of the Good Samaritan, you will remember, goes like this:

A certain man went down from Jerusalem to Jericho, and fell among thieves, which stripped him of his raiment, and wounded him, and departed, leaving him half dead.

And by chance there came down a certain priest that way; and when he saw him, he passed by on the other side.

And likewise a Levite, when he was at the place, came and looked on him, and passed by on the other side.

But a certain Samaritan, as he journeyed, came where he was; and when he saw him he had compassion on him.

And went to him, and bound up his wounds, pouring in oil and wine, and set him on his own beast, and brought him to an inn, and took care of him.

And on the morrow, when he departed, he took out two pence, and gave them to the host, and said unto him, "Take care of him; and whatsoever thou spendest more, when I come again, I will repay thee."

—(Luke 10:30–35)

The Good Samaritan went out of his way, at some cost to himself, to help one in need of it. We are not told what the options were, that is, whether or not the priest and the Levite could have helped by doing less than the Good Samaritan did, but assuming they could have, then the fact they did nothing at all shows they were not even Minimally Decent Samaritans, not because they were not Samaritans, but because they were not even minimally decent. . . .

After telling the story of the Good Samaritan, Jesus said, "Go, and do thou likewise." Perhaps he meant that we are morally required to act as the Good Samaritan did. Perhaps he was urging people to do more than is morally required of them. At all events it seems plain that . . . it is not morally required of anyone that he give long stretches of his life—nine years or nine months—to sustaining the life of a person who has no special right (we were leaving open the possibility of this) to demand it. . . .

We have . . . to look now at third-party interventions. I have been arguing that no person is morally required to make large sacrifices to sustain the life of another who has no right to demand them, and this

even where the sacrifices do not include life itself; we are not morally required to be Good Samaritans or anyway Very Good Samaritans to one another. But what if a man cannot extricate himself from such a situation? What if he appeals to us to extricate him? It seems to me plain that there are cases in which we can, cases in which a Good Samaritan would extricate him. There you are, you were kidnapped, and nine years in bed with that violinist lie ahead of you. You have your own life to lead. You are sorry, but you simply cannot see giving up so much of your life to the sustaining of his. You cannot extricate yourself, and ask us to do so. I should have thought that—in light of his having no right to the use of your body—it was obvious that we do not have to accede to your being forced to give up so much. We can do what you ask. There is no injustice to the violinist in our doing so.

7. Following the lead of the opponents of abortion, I have throughout been speaking of the fetus merely as a person, and what I have been asking is whether or not the argument we began with, which proceeds only from the fetus' being a person, really does establish its conclusion. I have argued that it does not.

But of course there are arguments and arguments, and it may be said that I have simply fastened on the wrong one. It may be said that what is important is not merely the fact that the fetus is a person, but that it is a person for whom the woman has a special kind of responsibility issuing from the fact that she is its mother. And it might be argued that all my analogies are therefore irrelevant—for you do not have that special kind of responsibility for that violinist, Henry Fonda does not have that special kind of responsibility for me. And our attention might be drawn to the fact that men and women both *are* compelled by law to provide support for their children.

I have in effect dealt (briefly) with this argument in section 4 above; but a (still briefer) recapitulation now may be in order. Surely we do not have any such "special responsibility" for a person unless we have assumed it, explicitly or implicitly. If a set of parents do not try to prevent pregnancy, do not obtain an abortion, and then at the time of birth of the child do not put it out for adoption, but rather take it home with them, then they have assumed responsibility for it, they have given it rights, and they cannot *now* withdraw support from it at the cost of its life because they now find it difficult to go on providing for it. But if they have taken all reasonable precautions against having a child, they do not simply by virtue of their biological relationship to the child who comes into existence have a special responsibility for it. They may wish to assume responsibility for it, or they

may not wish to. And I am suggesting that if assuming responsibility for it would require large sacrifices, then they may refuse. A Good Samaritan would not refuse—or anyway, a Splendid Samaritan, if the sacrifices that had to be made were enormous. But then so would a Good Samaritan assume responsibility for that violinist; so would a Henry Fonda, if he is a Good Samaritan, fly in from the West Coast and assume responsibility for me.

8. My argument will be found unsatisfactory on two counts by many of those who want to regard abortion as morally permissible. First, while I do argue that abortion is not impermissible, I do not argue that it is always permissible. There may well be cases in which carrying the child to term requires only Minimally Decent Samaritanism of the mother, and this is a standard we must not fall below. I am inclined to think it a merit of my account precisely that it does not give a general yes or a general no. It allows for and supports our sense that, for example, a sick and desperately frightened fourteen-year-old schoolgirl, pregnant due to rape, may of course choose abortion, and that any law which rules this out is an insane law. And it also allows for and supports our sense that in other cases resort to abortion is even positively indecent. It would be indecent in the woman to request an abortion, and indecent in the doctor to perform it, if she is in her seventh month, and wants the abortion just to avoid the nuisance of postponing a trip abroad. The very fact that the arguments I have been drawing attention to treat all cases of abortion, or even all cases of abortion in which the mother's life is not at stake, as morally on a par ought to have made them suspect at the outset.

Secondly, while I am arguing for the permissibility of abortion in some cases, I am not arguing for the right to secure the death of the unborn child. It is easy to confuse these two things in that up to a certain point in the life of the fetus it is not able to survive outside the mother's body; hence removing it from her body guarantees its death. But they are importantly different. I have argued that you are not morally required to spend nine months in bed, sustaining the life of that violinist; but to say this is by no means to say that if, when you unplug yourself, there is a miracle and he survives, you then have a right to turn round and slit his throat. You may detach yourself even if this costs him his life; you have no right to be guaranteed his death, by some other means, if unplugging yourself does not kill him. There are some people who will feel dissatisfied by this feature of my argument. A woman may be utterly devastated by the thought of a child, a bit of herself, put out for adoption and never seen or heard of again.

she may therefore want not merely that the child be detached from her, but more, that it die. Some opponents of abortion are inclined to regard this as beneath contempt—thereby showing insensitivity to what is surely a powerful source of despair. All the same, I agree that the desire for the child's death is not one which anybody may gratify, should it turn out to be possible to detach the child alive.

At this place, however, it should be remembered that we have only been pretending throughout that the fetus is a human being from the moment of conception. A very early abortion is surely not the killing of a person, and so is not dealt with by anything I have said here.

Notes

1. The term "direct" in the arguments I refer to is a technical one. Roughly, what is meant by "direct killing" is either killing as an end in itself, or killing as a means to some end, for example, the end of saving someone else's life. . . .
2. The thesis in (4) is in an interesting way weaker than those in (1), (2), and (3): they rule out abortion even in cases in which both mother and child will die if the abortion is not performed. By contrast, one who held the view expressed in (4) could consistently say that one needn't prefer letting two persons die to killing one.

Study Questions

1. What are the main points Thomson seeks to make by the example of the unconscious violinist?
2. Does the morality of aborting a fetus depend on the conditions surrounding its conception?
3. If abortion is murder, who is the murderer, and what is the appropriate punishment?
4. If the abortion controversy is described as a debate between those who believe in a right to life and those who affirm a woman's right to choose, on which side is Thomson?

CHAPTER 40

On the Moral and Legal Status of Abortion

Mary Anne Warren

Mary Anne Warren, whose work we read previously, argues that among the characteristics central to personhood are the capacity to experience pain and pleasure, feel happy or sad, solve complex problems, communicate messages on a variety of topics, have a concept of oneself as a member of a social group, and regulate one's own action through moral principles. Warren maintains that a fetus, lacking these traits, is not a person, and hence women's rights override whatever right to life a fetus may possess.

For our purposes, abortion may be defined as the act a woman performs in deliberately terminating her pregnancy before it comes to term, or in allowing another person to terminate it. Abortion usually entails the death of a fetus. Nevertheless, I will argue that it is morally permissible, and should be neither legally prohibited nor made needlessly difficult to obtain, e.g., by obstructive legal regulations.

Some philosophers have argued that the moral status of abortion cannot be resolved by rational means. If this is so then liberty should prevail; for it is not a proper function of the law to enforce prohibitions upon personal behavior that cannot clearly be shown to be morally objectionable, and seriously so. But the advocates of prohibition believe that their position is objectively correct, and not merely a result of religious beliefs or personal prejudices. They argue that the humanity of the fetus is a matter of scientific fact, and that abortion is therefore the moral equivalent of murder, and must be prohibited in

all or most cases. (Some would make an exception when the woman's life is in danger, or when the pregnancy is due to rape or incest; others would prohibit abortion even in these cases.)

In response, advocates of a right to choose abortion point to the terrible consequences of prohibiting it, especially while contraception is still unreliable, and is financially beyond the reach of much of the world's population. Worldwide, hundreds of thousands of women die each year from illegal abortions, and many more suffer from complications that may leave them injured or infertile. Women who are poor, underage, disabled, or otherwise vulnerable, suffer most from the absence of safe and legal abortion. Advocates of choice also argue that to deny a woman access to abortion is to deprive her of the right to control her own body—a right so fundamental that without it other rights are often all but meaningless.

These arguments do not convince abortion opponents. The tragic consequences of prohibition leave them unmoved, because they regard the deliberate killing of fetuses as even more tragic. Nor do appeals to the right to control one's own body impress them, since they deny that this right includes the right to destroy a fetus. We cannot hope to persuade those who equate abortion with murder that they are mistaken, unless we can refute the standard anti-abortion argument: that because fetuses are human beings, they have a right to life equal to that of any other human being. Unfortunately, confusion has prevailed with respect to the two important questions which that argument raises: (1) Is a human fetus really a human being at all stages of prenatal development? and (2) If so, what (if anything) follows about the moral and legal status of abortion? . . .

My . . . inquiry will . . . have two stages. In Section I, I consider whether abortion can be shown to be morally permissible even on the assumption that a fetus is a human being with a strong right to life. I argue that this cannot be established, except in special cases. Consequently, we cannot avoid facing the question of whether or not a fetus has the same right to life as any human being.

In Section II, I propose an answer to this question, namely, that a fetus is not a member of the moral community—the set of beings with full and equal moral rights. The reason that a fetus is not a member of the moral community is that it is not yet a person, nor is it enough like a person in the morally relevant respects to be regarded the equal of those human beings who are persons. I argue that it is personhood, and not genetic humanity, which is the fundamental basis for membership in the moral community. A fetus,

especially in the early stages of its development, satisfies none of the criteria of personhood. Consequently, it makes no sense to grant it moral rights strong enough to override the woman's moral rights to liberty, bodily integrity, and sometimes life itself. Unlike an infant who has already been born, a fetus cannot be granted full and equal moral rights without severely threatening the rights and well-being of women. Nor, as we will see, is a fetus's *potential* personhood a threat to the moral permissibility of abortion, since merely potential persons do not have a moral right to become actual—or none that is strong enough to override the fundamental moral rights of actual persons.

I

Judith Thomson argues that, even if a fetus has a right to life, abortion is often morally permissible. Her argument is based upon an imaginative analogy. She asks you to picture yourself waking up one day, in bed with a famous violinist, who is a stranger to you. Imagine that you have been kidnapped, and your bloodstream connected to that of the violinist, who has an ailment that will kill him unless he is permitted to share your kidneys for nine months. No one else can save him, since you alone have the right type of blood. Consequently, the Society of Music Lovers has arranged for you to be kidnapped, and hooked up. If you unhook yourself, he will die. But if you remain in bed with him, then after nine months he will be cured and able to survive without further assistance from you.

Now, Thomson asks, what are your obligations in this situation? To be consistent, the anti-abortionist must say that you are obliged to stay in bed with the violinist: for violinists are human beings, and all human beings have a right to life. But this is outrageous; thus, there must be something very wrong with the same argument when it is applied to abortion. It would be extremely generous of you to agree to stay in bed with the violinist; but it is absurd to suggest that your refusal to do so would be the moral equivalent of murder. The violinist's right to life does not oblige you to do whatever is required to keep him alive; still less does it justify anyone else in forcing you to do so. A law which required you to stay in bed with the violinist would be an unjust law, since unwilling persons ought not to be required to be Extremely Good Samaritans, i.e., to make enormous personal sacrifices for the sake of other individuals toward whom they have no special prior obligation.

Thomson concludes that we can grant the anti-abortionist his claim that a fetus is a human being with a right to life, and still hold that a pregnant woman is morally entitled to refuse to be an Extremely Good Samaritan toward the fetus. For there is a great gap between the claim that a human being has a right to life, and the claim that other human beings are morally obligated to do whatever is necessary to keep him alive. One has no duty to keep another human being alive *at a great personal cost*, unless one has somehow contracted a special obligation toward that individual; and a woman who is pregnant may have done nothing that morally obliges her to make the burdensome personal sacrifices necessary to preserve the life of the fetus.

This argument is plausible, and in the case of pregnancy due to rape it is probably conclusive. Difficulties arise, however, when we attempt to specify the larger range of cases in which abortion can be justified on the basis of this argument. Thomson considers it a virtue of her argument that it does not imply that abortion is *always* morally permissible. It would, she says, be indecent for a woman in her seventh month of pregnancy to have an abortion in order to embark on a trip to Europe. On the other hand, the violinist analogy shows that, "a sick and desperately frightened fourteen-year-old schoolgirl, pregnant due to rape, may *of course* choose abortion, and that any law which rules this out is an insane law." So far, so good; but what are we to say about the woman who becomes pregnant not through rape but because she and her partner did not use available forms of contraception, or because their attempts at contraception failed? What about a woman who becomes pregnant intentionally, but then re-evaluates the wisdom of having a child? In such cases, the violinist analogy is considerably less useful to advocates of the right to choose abortion.

It is perhaps only when a woman's pregnancy is due to rape, or some other form of coercion, that the situation is sufficiently analogous to the violinist case for our moral intuitions to transfer convincingly from the one case to the other. One difference between a pregnancy caused by rape and most unwanted pregnancies is that only in the former case is it perfectly clear that the woman is in no way responsible for her predicament. In the other cases, she *might* have been able to avoid becoming pregnant, e.g., by taking birth control pills (more faithfully), or insisting upon the use of high-quality condoms, or even avoiding heterosexual intercourse altogether throughout her fertile years. In contrast, if you are suddenly kidnapped by strange music lovers and hooked up to a sick violinist, then you are in no way responsible for your situation, which you could not

have foreseen or prevented. And responsibility does seem to matter here. If a person behaves in a way which she could have avoided, and which she knows might bring into existence a human being who will depend upon her for survival, then it is not entirely clear that if and when that happens she may rightly refuse to do what she must in order to keep that human being alive.

This argument shows that the violinist analogy provides a persuasive defense of a woman's right to choose abortion only in cases where she is in no way morally responsible for her own pregnancy. In all other cases, the assumption that a fetus has a strong right to life makes it necessary to look carefully at the particular circumstances in order to determine the extent of the woman's responsibility, and hence the extent of her obligation. This outcome is unsatisfactory, and advocates of the right to choose abortion, because it suggests that the decision should not be left in the woman's own hands, but should be supervised by other persons, who will inquire into the most intimate aspects of her personal life in order to determine whether or not she is entitled to choose abortion.

A supporter of the violinist analogy might reply that it is absurd to suggest that forgetting her pill one day might be sufficient to morally oblige a woman to complete an unwanted pregnancy. And indeed it is absurd to suggest this. As we will see, a woman's moral right to choose abortion does not depend upon the extent to which she might be thought to be morally responsible for her own pregnancy. But once we allow the assumption that a fetus has a strong right to life, we cannot avoid taking this absurd suggestion seriously. On this assumption, it is a vexing question whether and when abortion is morally justifiable. The violinist analogy can at best show that aborting a pregnancy is a deeply tragic act, though one that is sometimes morally justified.

My conviction is that an abortion is not always this deeply tragic, because a fetus is not yet a person, and therefore does not yet have a strong moral right to life. Although the truth of this conviction may not be self-evident, it does, I believe, follow from some highly plausible claims about the appropriate grounds for ascribing moral rights. It is worth examining these grounds, since this has not been adequately done before.

II

The question we must answer in order to determine the moral status of abortion is, How are we to define the moral community, the set of

beings with full and equal moral rights? What sort of entity has the inalienable moral rights to life, liberty, and the pursuit of happiness? . . .

On the Definition of "Human"

The term "human being" has two distinct, but not often distinguished, senses. This results in a slide of meaning, which serves to conceal the fallacy in the traditional argument that, since (1) it is wrong to kill innocent human beings, and (2) fetuses are innocent human beings, therefore (3) it is wrong to kill fetuses. For if "human being" is used in the same sense in both (1) and (2), then whichever of the two senses is meant, one of these premises is question-begging. And if it is used in different senses then the conclusion does not follow.

Thus, (1) is a generally accepted moral truth,¹ and one that does not beg the question about abortion, only if "human being" is used to mean something like "a full-fledged member of the moral community, who is also a member of the human species." I will call this the *moral* sense of "human being." It is not to be confused with what I will call the *genetic* sense, i.e., the sense in which any individual entity that belongs to the human species is a human being, regardless of whether or not it is rightly considered to be an equal member of the moral community. Premise (1) avoids begging the question only if the moral sense is intended, while premise (2) avoids it only if what is intended is the genetic sense. . . .

Defining the Moral Community

Is genetic humanity sufficient for moral humanity? There are good reasons for not defining the moral community in this way. I would suggest that the moral community consists, in the first instance, of all *persons*, rather than all genetically human entities.² It is persons who invent moral rights, and who are (sometimes) capable of respecting them. It does not follow from this that only persons can have moral rights. However, persons are wise not to ascribe to entities that clearly are not persons moral rights that cannot in practice be respected without severely undercutting the fundamental moral rights of those who clearly are.

What characteristics entitle an entity to be considered a person? This is not the place to attempt a complete analysis of the concept of personhood; but we do not need such an analysis to explain why

a fetus is not a person. All we need is an approximate list of the most basic criteria of personhood. In searching for these criteria, it is useful to look beyond the set of people with whom we are acquainted, all of whom are human. Imagine, then, a space traveler who lands on a new planet, and encounters organisms unlike any she has ever seen or heard of. If she wants to behave morally toward these organisms, she has somehow to determine whether they are people and thus have full moral rights, or whether they are things that she need not feel guilty about treating, for instance, as a source of food.

How should she go about making this determination? If she has some anthropological background, she might look for signs of religion, art, and the manufacturing of tools, weapons, or shelters, since these cultural traits have frequently been used to distinguish our human ancestors from prehuman beings, in what seems to be closer to the moral than the genetic sense of "human being." She would be right to take the presence of such traits as evidence that the extraterrestrials were persons. It would, however, be anthropocentric of her to take the absence of these traits as proof that they were not, since they could be people who have progressed beyond, or who have never needed, these particular cultural traits.

I suggest that among the characteristics which are central to the concept of personhood are the following:

1. *sentience*—the capacity to have conscious experiences, usually including the capacity to experience pain and pleasure;
2. *emotionality*—the capacity to feel happy, sad, angry, loving, etc.;
3. *reason*—the capacity to solve new and relatively complex problems;
4. *the capacity to communicate*, by whatever means, messages of an indefinite variety of types; that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics;
5. *self-awareness*—having a concept of oneself as an individual and/or as a member of a social group; and finally
6. *moral agency*—the capacity to regulate one's own actions through moral principles or ideals.

It is difficult to produce precise definitions of these traits, let alone to specify universally valid behavioral indications that these traits are present. But let us assume that our explorer knows approximately what these six characteristics mean, and that she is able to observe

whether or not the extraterrestrials possess these mental and behavioral capacities. How should she use her findings to decide whether or not they are persons?

An entity need not have *all* of these attributes to be a person. And perhaps none of them is absolutely necessary. For instance, the absence of emotion would not disqualify a being that was person-like in all other ways. Think, for instance, of two of the *Star Trek* characters, Mr. Spock (who is half human and half alien), and Data (who is an android). Both are depicted as lacking the capacity to feel emotion; yet both are sentient, reasoning, communicative, self-aware moral agents, and unquestionably persons. Some people are unemotional; some cannot communicate well; some lack self-awareness; and some are not moral agents. It should not surprise us that many people do not meet all of the criteria of personhood. Criteria for the applicability of complex concepts are often like this: none may be logically necessary, but the more criteria that are satisfied, the more confident we are that the concept is applicable. Conversely, the fewer criteria are satisfied, the less plausible it is to hold that the concept applies. And if none of the relevant criteria are met, then we may be confident that it does not.

Thus, to demonstrate that a fetus is not a person, all I need to claim is that an entity that has *none* of these six characteristics is not a person. Sentience is the most basic mental capacity, and the one that may have the best claim to being a necessary (though not sufficient) condition for personhood. Sentience can establish a claim to moral considerability, since sentient beings can be harmed in ways that matter to them; for instance, they can be caused to feel pain, or deprived of the continuation of a life that is pleasant to them. It is unlikely that an entirely insentient organism could develop the other mental behavioral capacities that are characteristic of persons. Consequently, it is odd to claim that an entity that is not sentient, and that has never been sentient, is nevertheless a person. Persons who have permanently and irreparably lost all capacity for sentience, but who remain biologically alive, arguably still have strong moral rights by virtue of what they have been in the past. But small fetuses, which have not yet begun to have experiences, are not persons yet and do not have the rights that persons do.

The presumption that all persons have full and equal basic moral rights may be part of the very concept of a person. If this is so, then the concept of a person is in part a moral one; once we have admitted that X is a person, we have implicitly committed ourselves to recognizing X's right to be treated as a member of the moral community.

The claim that X is a *human being* may also be voiced as an appeal to treat X decently; but this is usually either because "human being" is used in the moral sense, or because of a confusion between genetic and moral humanity.

If (1)–(6) are the primary criteria of personhood, then genetic humanity is neither necessary nor sufficient for personhood. Some genetically human entities are not persons, and there may be persons who belong to other species. A man or woman whose consciousness has been permanently obliterated but who remains biologically alive is a human entity who may no longer be a person; and some unfortunate humans, who have never had any sensory or cognitive capacities at all, may not be people either. Similarly, an early fetus is a human entity which is not yet a person. It is not even minimally sentient, let alone capable of emotion, reason, sophisticated communication, self-awareness, or moral agency.³ Thus, while it may be greatly valued as a future child, it does not yet have the claim to moral consideration that it may come to have later.

Moral agency matters to moral status, because it is moral agents who invent moral rights, and who can be obliged to respect them. Human beings have become moral agents from social necessity. Most social animals exist well enough, with no evident notion of a moral right. But human beings need moral rights, because we are not only highly social, but also sufficiently clever and self-interested to be capable of undermining our societies through violence and duplicity. For human persons, moral rights are essential for peaceful and mutually beneficial social life. So long as some moral agents are denied basic rights, peaceful existence is difficult, since moral agents justly resent being treated as something less. If animals of some terrestrial species are found to be persons, or if alien persons come from other worlds, or if human beings someday invent machines whose mental and behavioral capacities make them persons, then we will be morally obliged to respect the moral rights of these nonhuman persons—at least to the extent that they are willing and able to respect ours in turn.

Although only those persons who are moral agents can participate directly in the shaping and enforcement of moral rights, they need not and usually do not ascribe moral rights only to themselves and other moral agents. Human beings are social creatures who naturally care for small children, and other members of the social community who are not currently capable of moral agency. Moreover, we are all vulnerable to the temporary or permanent loss of the mental capacities

necessary for moral agency. Thus, we have self-interested as well as altruistic reasons for extending basic moral rights to infants and other sentient human beings who have already been born, but who currently lack some of these other mental capacities. These human beings, despite their current disabilities, are persons and members of the moral community.

But in extending moral rights to beings (human or otherwise) that have few or none of the morally significant characteristics of persons, we need to be careful not to burden human moral agents with obligations that they cannot possibly fulfill, except at unacceptably great cost to their own well-being and that of those they care about. Women often cannot complete unwanted pregnancies, except at intolerable mental, physical, and economic cost to themselves and their families. And heterosexual intercourse is too important a part of the social lives of most men and women to be reserved for times when pregnancy is an acceptable outcome. . . . If fetuses were persons, then they would have rights that must be respected, even at great social or personal cost. But given that early fetuses, at least, are unlike persons in the morally relevant respects, it is unreasonable to insist that they be accorded exactly the same moral and legal status.

Fetal Development and the Right to Life

Two questions arise regarding the application of these suggestions to the moral status of the fetus. First, if indeed fetuses are not yet persons, then might they nevertheless have strong moral rights based upon the degree to which they *resemble* persons? Secondly, to what extent, if any, does a fetus's potential to *become* a person imply that we ought to accord to it some of the same moral rights? Each of these questions requires comment.

It is reasonable to suggest that the more like a person something is—the more it appears to meet at least some of the criteria of personhood—the stronger is the case for according it a right to life, and perhaps the stronger its right to life is. That being the case, perhaps the fetus gradually gains a stronger right to life as it develops. We should take seriously the suggestion that, just as "the human individual develops biologically in a continuous fashion, the rights of a human person . . . develop in the same way."⁴ A seven-month fetus can apparently feel pain, and can respond to such stimuli as light and sound. Thus, it may have a rudimentary form of consciousness.

Nevertheless, it is probably not as conscious, or as capable of emotion, as even a very young infant is; and it has as yet little or no capacity for reason, sophisticated intentional communication, or self-awareness. In these respects, even a late-term fetus is arguably less like a person than are many nonhuman animals. Many animals (e.g., large-brained mammals such as elephants, cetaceans, or apes) are not only sentient, but clearly possessed of a degree of reason, and perhaps even of self-awareness. Thus, on the basis of its resemblance to a person, even a late-term fetus can have no more right to life than do these animals.

Animals may, indeed, plausibly be held to have some moral rights, and perhaps rather strong ones. But it is impossible in practice to accord full and equal moral rights to all animals. When an animal poses a serious threat to the life or well-being of a person, we do not, as a rule, greatly blame the person for killing it; and there are good reasons for this species-based discrimination. Animals, however intelligent in their own domains, are generally not beings with whom we can reason; we cannot persuade mice not to invade our dwellings or consume our food. That is why their rights are necessarily weaker than those of a being who can understand and respect the rights of other beings.

But the probable sentience of late-term fetuses is not the only argument in favor of treating late abortion as a morally more serious matter than early abortion. Many—perhaps most—people are repulsed by the thought of needlessly aborting a late-term fetus. The late-term fetus has features which cause it to arouse in us almost the same powerful protective instinct as does a small infant.

This response needs to be taken seriously. If it were impossible to perform abortions early in pregnancy, then we might have to tolerate the mental and physical trauma that would be occasioned by the routine resort to late abortion. But where early abortion is safe, legal, and readily available to all women, it is not unreasonable to expect most women who wish to end a pregnancy to do so prior to the third trimester. Most women strongly prefer early to late abortion, because it is far less physically painful and emotionally traumatic. Other things being equal, it is better for all concerned that pregnancies that are not to be completed should be ended as early as possible. Few women would consider ending a pregnancy in the seventh month in order to take a trip to Europe. If, however, a woman's own life or health is at stake, or if the fetus has been found to be so severely abnormal as to be unlikely to survive or to have a life worth living, then late abortion may be the morally best choice. For even a late-term

fetus is not a person yet, and its rights must yield to those of the woman whenever it is impossible for both to be respected.

Potential Personhood and the Right to Life

We have seen that a presentient fetus does not yet resemble a person in ways which support the claim that it has strong moral rights. But what about its *potential*, the fact that if nurtured and allowed to develop it may eventually become a person? Doesn't that potential give it at least some right to life? The fact that something is a potential person may be a reason for not destroying it; but we need not conclude from this that potential people have a strong right to life. It may be that the feeling that it is better not to destroy a potential person is largely due to the fact that potential people are felt to be an invaluable resource, not to be lightly squandered. If every speck of dust were a potential person, we would be less apt to suppose that all potential persons have a right to become actual.

We do not need to insist that a potential person has no right to life whatever. There may be something immoral, and not just imprudent, about wantonly destroying potential people, when doing so isn't necessary. But even if a potential person does have some right to life, that right could not outweigh the right of a woman to obtain an abortion; for the basic moral rights of an actual person outweigh the rights of a merely potential person, whenever the two conflict. Since this may not be immediately obvious in the case of a human fetus, let us look at another case.

Suppose that our space explorer falls into the hands of an extraterrestrial civilization, whose scientists decide to create a few thousand new human beings by killing her and using some of her cells to create clones. We may imagine that each of these newly created women will have all of the original woman's abilities, skills, knowledge, and so on, and will also have an individual self-concept; in short, that each of them will be a bona fide (though not genetically unique) person. Imagine, further, that our explorer knows all of this, and knows that these people will be treated kindly and fairly. I maintain that in such a situation she would have the right to escape if she could, thus depriving all of the potential people of their potential lives. For her right to life outweighs all of theirs put together, even though they are not genetically human, and have a high probability of becoming people, if only she refrains from acting.

Indeed, I think that our space traveler would have a right to escape even if it were not her life which the aliens planned to take, but only a

year of her freedom, or only a day. She would not be obliged to stay, even if she had been captured because of her own lack of caution—or even if she had done so deliberately, knowing the possible consequences. Regardless of why she was captured, she is not obliged to remain in captivity for *any* period of time in order to permit merely potential people to become actual people. By the same token, a woman's rights to liberty and the control of her own body outweigh whatever right a fetus may have merely by virtue of its potential personhood.

The Objection from Infanticide

One objection to my argument is that it appears to justify not only abortion, but also infanticide. A newborn infant is not much more personlike than a nine-month fetus, and thus it might appear that if late-term abortion is sometimes justified then infanticide must also sometimes be justified. Yet most people believe that infanticide is a form of murder, and virtually never justified.

This objection is less telling than it may seem. There are many reasons why infanticide is more difficult to justify than abortion, even though neither fetuses nor newborn infants are clearly persons. In this period of history, the deliberate killing of newborns is virtually never justified. This is in part because newborns are so close to being persons that to kill them requires a very strong moral justification—as does the killing of dolphins, chimpanzees, and other highly personlike creatures. It is certainly wrong to kill such beings for the sake of convenience, or financial profit, or “sport.” Only the most vital human needs, such as the need to defend one's own life and physical integrity, can provide a plausible justification for killing such beings.

In the case of an infant, there is no such vital need, since in the contemporary world there are usually other people who are eager to provide a good home for an infant whose own parents are unable or unwilling to care for it. Many people wait years for the opportunity to adopt a child, and some are unable to do so, even though there is every reason to believe that they would be good parents. The needless destruction of a viable infant not only deprives a sentient human being of life, but also deprives other persons of a source of great satisfaction, perhaps severely impoverishing *their* lives.

Even if an infant is unadoptable (e.g., because of some severe physical disability), it is still wrong to kill it. For most of us value the lives of infants, and would greatly prefer to pay taxes to support foster care and state institutions for disabled children, rather than to allow them

to be killed or abandoned. So long as most people feel this way, and so long as it is possible to provide care for infants who are unwanted, or who have special needs that their parents cannot meet without assistance, it is wrong to let any infant die who has a chance of living a reasonably good life.

If these arguments show that infanticide is wrong, at least in today's world, then why don't they also show that late-term abortion is always wrong? After all, third-trimester fetuses are almost as personlike as infants, and many people value them and would prefer that they be preserved. As a potential source of pleasure to some family, a fetus is just as valuable as an infant. But there is an important difference between these two cases: once the infant is born, its continued life cannot pose any serious threat to the woman's life or health, since she is free to put it up for adoption or to place it in foster care. While she might, in rare cases, prefer that the child die rather than being raised by others, such a preference would not establish a right on her part.

In contrast, a pregnant woman's right to protect her own life and health outweighs other people's desire that the fetus be preserved—just as, when a person's desire for life or health is threatened by an animal, and when the threat cannot be removed without killing the animal, that person's right to self-defense outweighs the desires of those who would prefer that the animal not be killed. Thus, while the moment of birth may mark no sharp discontinuity in the degree to which an infant resembles a person, it does mark the end of the mother's right to determine its fate. Indeed, if a late abortion can be safely performed without harming the fetus, the mother has in most cases no right to insist upon its death, for the same reason that she has no right to insist that a viable infant be killed or allowed to die.

It remains true that, on my view, neither abortion nor the killing of newborns is obviously a form of murder. Perhaps our legal system is correct in its classification of infanticide as murder, since no other legal category adequately expresses the force of our disapproval of this action. But some moral distinction remains, and it has important consequences. When a society cannot possibly care for all of the children who are born, without endangering the survival of adults and older children, allowing some infants to die may be the best of a bad set of options. Throughout history, most societies—from those that lived by gathering and hunting to the highly civilized Chinese, Japanese, Greeks, and Romans—have permitted infanticide under such unfortunate circumstances, regarding it as a necessary evil. It shows a lack of

understanding to condemn these societies as morally benighted for this reason alone, since in the absence of safe and effective means of contraception and abortion, parents must sometimes have had no morally better options.

Conclusion

I have argued that fetuses are neither persons nor members of the moral community. Furthermore, neither a fetus's resemblance to a person, nor its potential for becoming a person, provides an adequate basis for the claim that it has a full and equal right to life. At the same time, there are medical as well as moral reasons for preferring early to late abortion when the pregnancy is unwanted.

Women, unlike fetuses, are undeniably persons and members of the human moral community. If unwanted or medically dangerous pregnancies never occurred, then it might be possible to respect women's basic moral rights, while at the same time extending the same basic rights to fetuses. But in the real world such pregnancies do occur—often despite the woman's best efforts to prevent them. Even if the perfect contraceptive were universally available, the continued occurrence of rape and incest would make access to abortion a vital human need. Because women are persons, and fetuses are not, women's rights to life, liberty, and physical integrity morally override whatever right to life it may be appropriate to ascribe to a fetus. Consequently, laws that deny women the right to obtain abortions, or that make safe early abortions difficult or impossible for some women to obtain, are an unjustified violation of basic moral and constitutional rights.

Notes

1. The principle that it is always wrong to kill innocent human beings may be in need of other modifications, e.g., that it may be permissible to kill innocent human beings in order to save a larger number of equally innocent human beings; but we may ignore these complications here.
2. From here on, I will use "human" to mean "genetically human," since the moral sense of the term seems closely connected to, and perhaps derived from, the assumption that genetic humanity is both necessary and sufficient for membership in the moral community.
3. Fetal sentience is impossible prior to the development of neurological connections between the sense organs and the brain, and between the

various parts of the brain involved in the processing of conscious experience. This stage of neurological development is currently thought to occur at some point in the late second or early third trimester.

4. Thomas L. Hayes, "A Biological View," *Commonweal* 85 (March 17, 1967): pp. 677–78; cited by Daniel Callahan in *Abortion: Law, Choice, and Morality* (London: Macmillan, 1970).

Study Questions

1. What characteristics entitle an entity to be considered a person?
2. Is infanticide more difficult to justify than abortion?
3. If a fetus is a human being, is abortion ever morally permissible?
4. If a fetus is not a human being, is abortion ever morally wrong?

CHAPTER 41

Why Abortion Is Immoral

Don Marquis

Don Marquis, Professor of Philosophy at the University of Kansas, argues that, with rare exceptions, abortion is immoral. He bases his argument not on the claim that the fetus is a person, but rather on the view that an aborted fetus loses the future goods of consciousness, such as the pursuit of goals, completion of projects, aesthetic enjoyment, friendships, intellectual pursuits, and various physical pleasures. In short, premature death deprives individuals of a future of value.

The view that abortion is, with rare exceptions, seriously immoral has received little support in the recent philosophical literature. No doubt most philosophers affiliated with secular institutions of higher education believe that the anti-abortion position is either a symptom of irrational religious dogma or a conclusion generated by seriously confused philosophical argument. The purpose of this essay is to undermine this general belief. This essay sets out an argument that purports to show, as well as any argument in ethics can show, that abortion is, except possibly in rare cases, seriously immoral, that it is in the same moral category as killing an innocent adult human being. . . .

II

... [W]e can start from the following unproblematic assumption concerning our own case: it is wrong to kill *us*. Why is it wrong? Some answers can be easily eliminated. It might be said that what makes killing *us* wrong is that a killing brutalizes the one who kills. But the

From Don Marquis, "Why Abortion Is Immoral," in *The Journal of Philosophy*, Vol. 86. Copyright © 1989. Reprinted by permission of the author and *The Journal of Philosophy*.

brutalization consists of being inured to the performance of an act that is hideously immoral; hence, the brutalization does not explain the immorality. It might be said that what makes killing *us* wrong is the great loss others would experience due to our absence. Although such hubris is understandable, such an explanation does not account for the wrongness of killing hermits, or those whose lives are relatively independent and whose friends find it easy to make new friends.

A more obvious answer is better. What primarily makes killing wrong is neither its effect on the murderer nor its effect on the victim's friends and relatives, but its effect on the victim. The loss of one's life is one of the greatest losses one can suffer. The loss of one's life deprives one of all the experiences, activities, projects, and enjoyments that would otherwise have constituted one's future. Therefore, killing someone is wrong, primarily because the killing inflicts (one of) the greatest possible losses on the victim. To describe this as the loss of life can be misleading, however. The change in my biological state does not by itself make killing me wrong. The effect of the loss of my biological life is the loss to me of all those activities, projects, experiences, and enjoyments which would otherwise have constituted my future personal life. These activities, projects, experiences, and enjoyments are either valuable for their own sakes or are means to something else that is valuable for its own sake. Some parts of my future are not valued by me now, but will come to be valued by me as I grow older and as my values and capacities change. When I am killed, I am deprived both of what I now value which would have been part of my future personal life, but also what I would come to value. Therefore, when I die, I am deprived of all of the value of my future. Inflicting this loss on me is ultimately what makes killing me wrong. This being the case, it would seem that what makes killing *any* adult human being *prima facie* seriously wrong is the loss of his or her future.¹

How should this rudimentary theory of the wrongness of killing be evaluated? It cannot be faulted for deriving an "ought" from an "is," for it does not. The analysis assumes that killing me (or you, reader) is *prima facie* seriously wrong. The point of the analysis is to establish which natural property ultimately explains the wrongness of the killing, given that it is wrong. A natural property will ultimately explain the wrongness of killing, only if (1) the explanation fits with our intuitions about the matter and (2) there is no other natural property that provides the basis for a better explanation of the wrongness of killing. This analysis rests on the intuition that what makes killing a particular human or animal wrong is what it does to

that particular human or animal. What makes killing wrong is some natural effect or other of the killing. Some would deny this. For instance, a divine command theorist in ethics would deny it. Surely this denial is, however, one of those features of divine command theory which renders it so implausible.

The claim that what makes killing wrong is the loss of the victim's future is directly supported by two considerations. In the first place, this theory explains why we regard killing as one of the worst of crimes. Killing is especially wrong, because it deprives the victim of more than perhaps any other crime. In the second place, the victim of AIDS or cancer who know they are dying believe, of course, that dying is a very bad thing for them. They believe that the loss of a future to them that they would otherwise have experienced is what makes their premature death a very bad thing for them. A better theory of the wrongness of killing would require a different natural property associated with killing which better fits with the attitudes of the dying. What could it be?

The view that what makes killing wrong is the loss to the victim of the value of the victim's future gains additional support when some of its implications are examined. In the first place, it is incompatible with the view that it is wrong to kill only beings who are biologically human. It is possible that there exists a different species from another planet whose members have a future like ours. Since having a future like that is what makes killing someone wrong, this theory entails that it would be wrong to kill members of such a species. Hence, this theory is opposed to the claim that only life that is biologically human has great moral worth, a claim which many anti-abortionists have seemed to adopt. This opposition, . . . seems to be a merit of the theory.

In the second place, the claim that the loss of one's future is the wrong-making feature of one's being killed entails the possibility that the futures of some actual nonhuman mammals on our own planet are sufficiently like ours that it is seriously wrong to kill them also. Whether some animals do have the same right to life as human beings depends on adding to the account of the wrongness of killing some additional account of just what it is about my future or the futures of other adult human beings which makes it wrong to kill us. No such additional account will be offered in this essay. Undoubtedly, the provision of such an account would be a very difficult matter. Undoubtedly, any such account would be quite controversial. Hence, it surely should not reflect badly on this sketch

of an elementary theory of the wrongness of killing that it is indeterminate with respect to some very difficult issues regarding animal rights.

In the third place, the claim that the loss of one's future is the wrong-making feature of one's being killed does not entail, as sanctity-of-human-life theories do, that active euthanasia is wrong. Persons who are severely and incurably ill, who face a future of pain and despair, and who wish to die will not have suffered a loss if they are killed. It is, strictly speaking, the value of a human's future which makes killing wrong in this theory. This being so, killing does not necessarily wrong some persons who are sick and dying. Of course, there may be other reasons for a prohibition of active euthanasia, but that is another matter. Sanctity-of-human-life theories seem to hold that active euthanasia is seriously wrong even in an individual case where there seems to be good reason for it independently of public policy considerations. This consequence is most implausible, and it is a plus for the claim that the loss of a future of value is what makes killing wrong that it does not share this consequence.

In the fourth place, the account of the wrongness of killing defended in this essay does straightforwardly entail that it is *prima facie* seriously wrong to kill children and infants, for we do presume that they have futures of value. Since we do believe that it is wrong to kill defenseless . . . babies, it is important that a theory of the wrongness of killing easily account for this. Personhood theories of the wrongness of killing, on the other hand, cannot straightforwardly account for the wrongness of killing infants and young children. Hence, such theories must add special *ad hoc* accounts of the wrongness of killing the young. The plausibility of such *ad hoc* theories seems to be a function of how desperately one wants such theories to work. The claim that the primary wrong-making feature of a killing is the loss to the victim of the value of its future accounts for the wrongness of killing young children and infants directly; it makes the wrongness of such acts as obvious as we actually think it is. This is a further merit of this theory. Accordingly, it seems that this value of a future-like-ours theory of the wrongness of killing shares strengths of both sanctity-of-life and personhood accounts while avoiding weaknesses of both. In addition, it meshes with a central intuition concerning what makes killing wrong.

The claim that the primary wrong-making feature of a killing is the loss to the victim of the value of its future has obvious consequences for the ethics of abortion. The future of a standard fetus

includes a set of experiences, projects, activities, and such which are identical with the futures of adult human beings and are identical with the futures of young children. Since the reason that is sufficient to explain why it is wrong to kill human beings after the time of birth is a reason that also applies to fetuses, it follows that abortion is *prima facie* seriously morally wrong.

This argument does not rely on the invalid inference that, since it is wrong to kill persons, it is wrong to kill potential persons also. The category that is morally central to this analysis is the category of having a valuable future like ours; it is not the category of personhood. The argument to the conclusion that abortion is *prima facie* seriously morally wrong proceeded independently of the notion of person or potential person or any equivalent. Someone may wish to start with this analysis in terms of the value of a human future, conclude that abortion is, except perhaps in rare circumstances, seriously morally wrong, infer that fetuses have the right to life, and then call fetuses "persons" as a result of their having the right to life. Clearly, in this case, the category of person is being used to state the *conclusion* of the analysis rather than to generate the *argument* of the analysis. . . .

Of course, this value of a future-like-ours argument, if sound, shows only that abortion is *prima facie* wrong, not that it is wrong in any and all circumstances. Since the loss of the future to a standard fetus, if killed, is, however, at least as great a loss as the loss of the future to a standard adult human being who is killed, abortion, like ordinary killing, could be justified only by the most compelling reasons. The loss of one's life is almost the greatest misfortune that can happen to one. Presumably abortion could be justified in some circumstances, only if the loss consequent on failing to abort would be at least as great. Accordingly, morally permissible abortions will be rare indeed unless, perhaps, they occur so early in pregnancy that a fetus is not yet definitely an individual. Hence, this argument should be taken as showing that abortion is presumptively very seriously wrong, where the presumption is very strong—as strong as the presumption that killing another adult human being is wrong. . . .

V

In this essay, it has been argued that the correct ethic of the wrongness of killing can be extended to fetal life and used to show that there is a strong presumption that any abortion is morally impermissible. If

the ethic of killing adopted here entails, however, that contraception is also seriously immoral, then there would appear to be a difficulty with the analysis of this essay.

But this analysis does not entail that contraception is wrong. Of course, contraception prevents the actualization of a possible future of value. Hence, it follows from the claim that futures of value should be maximized that contraception is *prima facie* immoral. This obligation to maximize does not exist, however; furthermore, nothing in the ethics of killing in this paper entails that it does. The ethics of killing in this essay would entail that contraception is wrong only if something were denied a human future of value by contraception. Nothing at all is denied such a future by contraception, however.

Candidates for a subject of harm by contraception fall into four categories: (1) some sperm or other, (2) some ovum or other, (3) a sperm and an ovum separately, and (4) a sperm and an ovum together. Assigning the harm to some sperm is utterly arbitrary, for no reason can be given for making a sperm the subject of harm rather than an ovum. Assigning the harm to some ovum is utterly arbitrary, for no reason can be given for making an ovum the subject of harm rather than a sperm. One might attempt to avoid these problems by insisting that contraception deprives both the sperm and the ovum separately of a valuable future like ours. On this alternative, too many futures are lost. Contraception was supposed to be wrong, because it deprived us of one future of value, not two. One might attempt to avoid this problem by holding that contraception deprives the combination of sperm and ovum of a valuable future like ours. But here the definite article misleads. At the time of contraception, there are hundreds of millions of sperm, one (released) ovum and millions of possible combinations of all of these. There is no actual combination at all. Is the subject of the loss to be a merely possible combination? Which one? This alternative does not yield an actual subject of harm either. Accordingly, the immorality of contraception is not entailed by the loss of a future-like-ours argument simply because there is no nonarbitrarily identifiable subject of the loss in the case of contraception.

VI

The purpose of this essay has been to set out an argument for the serious presumptive wrongness of abortion subject to the assumption that the moral permissibility of abortion stands or falls on the moral status of the fetus. Since a fetus possesses a property, the possession

of which in adult human beings is sufficient to make killing an adult human being wrong, abortion is wrong. This way of dealing with the problem of abortion seems superior to other approaches to the ethics of abortion, because it rests on an ethics of killing which is close to self-evident, because the crucial morally relevant property clearly applies to fetuses, and because the argument avoids the usual equivocations of "human life," "human being," or "person." . . . Its soundness is compatible with the moral permissibility of euthanasia and contraception. It deals with our intuitions concerning young children.

Finally, this analysis can be viewed as resolving a standard problem—indeed, *the* standard problem—concerning the ethics of abortion. Clearly, it is wrong to kill adult human beings. Clearly, it is not wrong to end the life of some arbitrarily chosen single human cell. Fetuses seem to be like arbitrarily chosen human cells in some respects and like adult humans in other respects. The problem of the ethics of abortion is the problem of determining the fetal property that settles this moral controversy. The thesis of this essay is that the problem of the ethics of abortion, so understood, is solvable.

Note

1. I have been most influenced on this matter by Jonathan Glover, *Causing Death and Saving Lives* (New York: Penguin, 1977), chap. 3; and Robert Young, "What Is So Wrong with Killing People?" *Philosophy* LIV, 210 (1979), pp. 518–28.

Study Questions

1. Is the loss of one's future as devastating for a fetus as for a child?
2. Does Marquis's argument that abortion is immoral depend on religious considerations?
3. Does Marquis accept the argument that because killing persons is wrong, killing potential persons is also wrong?
4. According to Marquis, in what circumstances is abortion not wrong?

CHAPTER 42

Virtue Theory and Abortion Rosalind Hursthouse

Rosalind Hursthouse is Professor of Philosophy at the University of Auckland in New Zealand. She demonstrates how virtue theory can be applied to the issue of abortion. The term "deontological" that she uses refers to an ethical theory, such as Kant's, based on fulfilling duties, as opposed to a consequentialist theory, such as utilitarianism, that appeals to achieving good states of affairs.

The sort of ethical theory derived from Aristotle, variously described as virtue ethics, virtue-based ethics, or neo-Aristotelianism, is becoming better known, and is now quite widely recognized as at least a possible rival to deontological and utilitarian theories. . . . I aim to deepen that understanding . . . by illustrating what the theory looks like when it is applied to a particular issue, in this case, abortion. . . .

As everyone knows, the morality of abortion is commonly discussed in relation to just two considerations: first, and predominantly, the status of the fetus and whether or not it is the sort of thing that may or may not be innocuously or justifiably killed; and second, and less predominantly (when, that is, the discussion concerns the *morality* of abortion rather than the question of permissible legislation in a just society), women's rights. If one thinks within this familiar framework, one may well be puzzled about what virtue theory, as such, could contribute. Some people assume the discussion will be conducted solely in terms of what the virtuous agent would or would not do. . . . Others assume that only justice, or at most justice and charity, will be applied to the issue, generating a discussion very similar to Judith Jarvis Thomson's.¹

Now if this is the way the virtue theorist's discussion of abortion is imagined to be, no wonder people think little of it. It seems obvious in advance that in any such discussion there must be either a great deal of extremely tendentious application of the virtue terms *just*, *charitable*, and so on or a lot of rhetorical appeal to "this is what only the virtuous agent knows." But these are caricatures; they fail to appreciate the way in which virtue theory quite transforms the discussion of abortion by dismissing the two familiar dominating considerations as, in a way, fundamentally irrelevant. In what way or ways, I hope to make both clear and plausible.

Let us first consider women's rights. Let me emphasize again that we are discussing the *morality* of abortion, not the rights and wrongs of laws prohibiting or permitting it. If we suppose that women do have a moral right to do as they choose with their own bodies, or, more particularly, to terminate their pregnancies, then it may well follow that a law forbidding abortion would be unjust. Indeed, even if they have no such right, such a law might be, as things stand at the moment, unjust, or impractical, or inhumane: on this issue I have nothing to say in this article. But, putting all questions about the justice or injustice of laws to one side, and supposing only that women have such a moral right, *nothing* follows from this supposition about the morality of abortion, according to virtue theory, once it is noted (quite generally, not with particular reference to abortion) that in exercising a moral right I can do something cruel, or callous, or selfish, light-minded, self-righteous, stupid, inconsiderate, disloyal, dishonest—that is act viciously.² Love and friendship do not survive their parties constantly insisting on their rights, nor do people live well when they think that getting what they have a right to is of pre-eminent importance; they harm others, and they harm themselves. So whether women have a moral right to terminate their pregnancies is irrelevant within virtue theory, for it is irrelevant to the question "In having an abortion in these circumstances, would the agent be acting virtuously or viciously or neither?"

What about the consideration of the status of the fetus—what can virtue theory say about that? One might say that this issue is not in the province of *any* moral theory; it is a metaphysical question, and an extremely difficult one at that. Must virtue theory then wait upon metaphysics to come up with the answer?

At first sight it might seem so. For virtue is said to involve knowledge, and part of this knowledge consists in having the *right* attitude to things. "Right" here does not just mean "morally right" or "proper"

or "nice" in the modern sense; it means "accurate, true." One cannot have the right or correct attitude to something if the attitude is based on or involves false beliefs. And this suggests that if the status of the fetus is relevant to the rightness or wrongness of abortion, its status must be known, as a truth, to the fully wise and virtuous person.

But the sort of wisdom that the fully virtuous person has is not supposed to be recondite; it does not call for fancy philosophical sophistication, and it does not depend upon, let alone wait upon, the discoveries of academic philosophers.³ And this entails the following, rather startling, conclusion: that the status of the fetus—that issue over which so much ink has been spilt—is, according to virtue theory, simply not relevant to the rightness or wrongness of abortion (within, that is, a secular morality).

Or rather, since that is clearly too radical a conclusion, it is in a sense relevant, but only in the sense that the familiar biological facts are relevant. By "the familiar biological facts" I mean the facts that most human societies are and have been familiar with—that, standardly (but not invariably), pregnancy occurs as the result of sexual intercourse, that it lasts about nine months, during which time the fetus grows and develops, that standardly it terminates in the birth of a living baby, and that this is how we all come to be.

It might be thought that this distinction—between the familiar biological facts and the status of the fetus—is a distinction without a difference. But this is not so. To attach relevance to the status of the fetus, in the sense in which virtue theory claims it is not relevant, is to be gripped by the conviction that we must go beyond the familiar biological facts, deriving some sort of conclusion from them, such as that the fetus has rights, or is not a person, or something similar. It is also to believe that this exhausts the relevance of the familiar biological facts, that all they are relevant to is the status of the fetus and whether or not it is the sort of thing that may or may not be killed.

These convictions, I suspect, are rooted in the desire to solve the problem of abortion by getting it to fall under some general rule such as "You ought not to kill anything with the right to life but may kill anything else." But they have resulted in what should surely strike any nonphilosopher as a most bizarre aspect of nearly all the current philosophical literature on abortion, namely, that, far from treating abortion as a unique moral problem, markedly unlike any other, nearly everything written on the status of the fetus and its bearing on the abortion issue would be consistent with the human reproductive facts' (to say nothing of family life) being totally different from what they

are. Imagine that you are an alien extraterrestrial anthropologist who does not know that the human race is roughly 50 percent female and 50 percent male, or that our only (natural) form of reproduction involves heterosexual intercourse, viviparous birth, and the female's (and only the female's) being pregnant for nine months, or that females are capable of childbearing from late childhood to late middle age, or that childbearing is painful, dangerous, and emotionally charged—do you think you would pick up these facts from the hundreds of articles written on the status of the fetus? I am quite sure you would not. And that, I think, shows that the current philosophical literature on abortion has got badly out of touch with reality.

Now if we are using virtue theory, our first question is not "What do the familiar biological facts show—what can be derived from them about the status of the fetus?" but "How do these facts figure in the practical reasoning, actions and passions, thoughts and reactions, of the virtuous and the nonvirtuous? What is the mark of having the right attitude to these facts and what manifests having the wrong attitude to them?" This immediately makes essentially relevant not only all the facts about human reproduction I mentioned above, but a whole range of facts about our emotions in relation to them as well. I mean such facts as that human parents, both male and female, tend to care passionately about their offspring, and that family relationships are among the deepest and strongest in our lives—and, significantly, among the longest-lasting.

These facts make it obvious that pregnancy is not just one among many other physical conditions; and hence that anyone who genuinely believes that an abortion is comparable to a haircut or an appendectomy is mistaken.¹ The fact that the premature termination of a pregnancy is, in some sense, the cutting off of a new human life, and thereby, like the procreation of a new human life, connects with all our thoughts about human life and death, parenthood, and family relationships, must make it a serious matter. To disregard this fact about it, to think of abortion as nothing but the killing of something that does not matter, or as nothing but the exercise of some right or rights one has, or as the incidental means to some desirable state of affairs, is to do something callous and light-minded, the sort of thing that no virtuous and wise person would do. It is to have the wrong attitude not only to fetuses, but more generally to human life and death, parenthood, and family relationships.

Although I say that the facts make this obvious, I know that this is one of my tendentious points. In partial support of it I note that even

the most dedicated proponents of the view that deliberate abortion is just like an appendectomy or haircut rarely hold the same view of spontaneous abortion, that is, miscarriage. It is not so tendentious of me to claim that to react to people's grief over miscarriage by saying, or even thinking, "What a fuss about nothing!" would be callous and light-minded, whereas to try to laugh someone out of grief over an appendectomy scar or a botched haircut would not be. It is hard to give this point due prominence within act-centered theories, for the inconsistency is an inconsistency in attitude about the seriousness of loss of life, not in beliefs about which acts are right or wrong. Moreover, an act-centered theorist may say, "Well, there is nothing wrong with thinking 'What a fuss about nothing!' as long as you do not say it and hurt the person who is grieving. And besides, we cannot be held responsible for our thoughts, only for the intentional actions they give rise to." But the character traits that virtue theory emphasizes are not simply dispositions to intentional actions, but a seamless disposition to certain actions and passions, thoughts and reactions.

To say that the cutting off of a human life is always a matter of some seriousness, at any stage, is not to deny the relevance of gradual fetal development. Notwithstanding the well-worn point that clear boundary lines cannot be drawn, our emotions and attitudes regarding the fetus do change as it develops, and again when it is born, and indeed further as the baby grows. Abortion for shallow reasons in the later stages is much more shocking than abortion for the same reasons in the early stages in a way that matches the fact that deep grief over miscarriage in the later stages is more appropriate than it is over miscarriage in the earlier stages (when, that is, the grief is solely about the loss of *this* child, not about, as might be the case, the loss of one's only hope of having a child or of having one's husband's child). Imagine (or recall) a woman who already has children; she had not intended to have more, but finds herself unexpectedly pregnant. Though contrary to her plans, the pregnancy, once established as a fact, is welcomed—and then she loses the embryo almost immediately. If this were bemoaned as a tragedy, it would, I think, be a misapplication of the concept of what is tragic. But it may still properly be mourned as a loss. The grief is expressed in such terms as "I shall always wonder how she or he would have turned out" or "When I look at the others, I shall think, 'How different their lives would have been if this other one had been part of them.'" It would, I take it, be callous and light-minded to say, or think, "Well, she has already got four children; what's the problem?"; it would be neither,

nor arrogantly intrusive in the case of a close friend, to try to correct prolonged mourning by saying, "I know it's sad, but it's not a tragedy; rejoice in the ones you have." The application of *tragic* becomes more appropriate as the fetus grows, for the mere fact that one has lived with it for longer, conscious of its existence, makes a difference. To shrug off an early abortion is understandable just because it is very hard to be fully conscious of the fetus's existence in the early stages and hence hard to appreciate that an early abortion is the destruction of life. It is particularly hard for the young and inexperienced to appreciate this, because appreciation of it usually comes only with experience.

I do not mean "with the experience of having an abortion" (though that may be part of it) but, quite generally, "with the experience of life." Many women who have borne children contrast their later pregnancies with their first successful one, saying that in the later pregnancies they were conscious of a new life growing in them from very early on. And, more generally, as one reaches the age at which the next generation is coming up close behind one, the counterfactuals "If I, or she, had had an abortion, Alice, or Bob, would not have been born" acquire a significant application, which casts a new light on the conditionals "If I or Alice have an abortion then some Caroline or Bill will not be born."

The fact that pregnancy is not just one among many physical conditions does not mean that one can never regard it in that light without manifesting a vice. When women are in very poor physical health, or worn out from childbearing, or forced to do very physically demanding jobs, then they cannot be described as self-indulgent, callous, irresponsible, or light-minded if they seek abortions mainly with a view to avoiding pregnancy as the physical condition that it is. To go through with a pregnancy when one is utterly exhausted, or when one's job consists of crawling along tunnels hauling coal, as many women in the nineteenth century were obliged to do, is perhaps heroic, but people who do not achieve heroism are not necessarily vicious. That they can view the pregnancy only as eight months of misery, followed by hours if not days of agony and exhaustion, and abortion only as the blessed escape from this prospect, is entirely understandable and does not manifest any lack of serious respect for human life or a shallow attitude to motherhood. What it does show is that something is terribly amiss in the conditions of their lives, which make it so hard to recognize pregnancy and childbearing as the good that they can be.

In relation to this last point I should draw attention to the way in which virtue theory has a sort of built-in indexicality. Philosophers arguing against anything remotely resembling a belief in the sanctity of life (which the above claims clearly embody) frequently appeal to the existence of other communities in which abortion and infanticide are practiced. We should not automatically assume that it is impossible that some other communities could be morally inferior to our own; maybe some are, or have been, precisely insofar as their members are, typically, callous or light-minded or unjust. But in communities in which life is a great deal tougher for everyone than it is in ours, having the right attitude to human life and death, parenthood, and family relationships might well manifest itself in ways that are unlike ours. When it is essential to survival that most members of the community fend for themselves at a very young age or work during most of their waking hours, selective abortion or infanticide might be practiced either as a form of genuine euthanasia or for the sake of the community and not, I think, be thought callous or light-minded. But this does not make everything all right; as before, it shows that there is something amiss with the conditions of their lives, which are making it impossible for them to live really well.

The foregoing discussion, insofar as it emphasizes the right attitude to human life and death, parallels to a certain extent those standard discussions of abortion that concentrate on it solely as an issue of killing. But it does not, as those discussions do, gloss over the fact, emphasized by those who discuss the morality of abortion in terms of women's rights, that abortion, wildly unlike any other form of killing, is the termination of a pregnancy, which is a condition of a woman's body and results in *her* having a child if it is not aborted. This fact is given due recognition not by appeal to women's rights but by emphasizing the relevance of the familiar biological and psychological facts and their connection with having the right attitude to parenthood and family relationships. But it may well be thought that failing to bring in women's rights still leaves some important aspects of the problem of abortion untouched.

Speaking in terms of women's rights, people sometimes say things like, "Well, it's her life you're talking about too, you know; she's got a right to her own life, her own happiness." And the discussion stops there. But in the context of virtue theory, given that we are particularly concerned with what constitutes a good human life, with what true happiness or *eudaimonia* is, this is no place to stop. We go on to ask, "And is this life of hers a good one? Is she living well?"

If we are to go on to talk about good human lives, in the context of abortion, we have to bring in our thoughts about the value of love and family life, and our proper emotional development through a natural life cycle. The familiar facts support the view that parenthood in general, and motherhood and childbearing in particular, are intrinsically worthwhile, are among the things that can be correctly thought to be partially constitutive of a flourishing human life.⁵ If this is right, then a woman who opts for not being a mother (at all, or again, or now) by opting for abortion may thereby be manifesting a flawed grasp of what her life should be, and be about—a grasp that is childish, or grossly materialistic, or short-sighted, or shallow.

I said "may thereby"; this need not be so. Consider, for instance, a woman who has already had several children and fears that to have another will seriously affect her capacity to be a good mother to the ones she has—she does not show a lack of appreciation of the intrinsic value of being a parent by opting for abortion. Nor does a woman who has been a good mother and is approaching the age at which she may be looking forward to being a good grandmother. Nor does a woman who discovers that her pregnancy may well kill her, and opts for abortion and adoption. Nor, necessarily, does a woman who has decided to lead a life centered around some other worthwhile activity or activities with which motherhood would compete.

People who are childless by choice are sometimes described as "irresponsible," or "selfish," or "refusing to grow up," or "not knowing what life is about." But one can hold that having children is intrinsically worthwhile without endorsing this, for we are, after all, in the happy position of there being more worthwhile things to do than can be fitted into one lifetime. Parenthood, and motherhood in particular, even if granted to be intrinsically worthwhile, undoubtedly take up a lot of one's adult life, leaving no room for some other worthwhile pursuits. But some women who choose abortion rather than have their first child, and some men who encourage their partners to choose abortion, are not avoiding parenthood for the sake of other worthwhile pursuits, but for the worthless one of "having a good time," or for the pursuit of some false vision of the ideals of freedom or self-realization. And some others who say "I am not ready for parenthood yet" are making some sort of mistake about the extent to which one can manipulate the circumstances of one's life so as to make it fulfill some dream that one has. Perhaps one's dream is to have two perfect children, a girl and a boy, within a perfect

marriage, in financially secure circumstances, with an interesting job of one's own. But to care too much about that dream, to demand of life that it give it to one and act accordingly, may be both greedy and foolish, and is to run the risk of missing out on happiness entirely. Not only may fate make the dream impossible, or destroy it, but one's own attachment to it may make it impossible. Good marriages, and the most promising children, can be destroyed by just one adult's excessive demand for perfection.

Once again, this is not to deny that girls may quite properly say "I am not ready for motherhood yet," especially in our society, and, far from manifesting irresponsibility or light-mindedness, show an appropriate modesty or humility, or a fearfulness that does not amount to cowardice. However, even when the decision to have an abortion is the right decision—one that does not itself fall under a vice-related term and thereby one that the perfectly virtuous could recommend—it does not follow that there is no sense in which having the abortion is wrong, or guilt inappropriate. For, by virtue of the fact that a human life has been cut short, some evil has probably been brought about,⁶ and that circumstances make the decision to bring about some evil the right decision will be a ground for guilt if getting into those circumstances in the first place itself manifested a flaw in character.

What "gets one into those circumstances" in the case of abortion is, except in the case of rape, one's sexual activity and one's choices, or the lack of them, about one's sexual partner and about contraception. The virtuous woman (which here of course does not mean simply "chaste woman" but "woman with the virtues") has such character traits as strength, independence, resoluteness, decisiveness, self-confidence, responsibility, serious-mindedness, and self-determination—and no one, I think, could deny that many women become pregnant in circumstances in which they cannot welcome or cannot face the thought of having *this* child precisely because they lack one or some of these character traits. So even in the cases where the decision to have an abortion is the right one, it can still be the reflection of a moral failing—not because the decision itself is weak or cowardly or irresolute or irresponsible or light-minded, but because lack of the requisite opposite of these failings landed one in the circumstances in the first place. Hence the common universalized claim that guilt and remorse are never appropriate emotions about an abortion is denied. They may be appropriate, and appropriately inculcated, even when the decision was the right one.

Another motivation for bringing women's rights into the discussion may be to attempt to correct the implication, carried by the killing-centered approach, that insofar as abortion is wrong, it is a wrong that only women do, or at least (given the preponderance of male doctors) that only women instigate. I do not myself believe that we can thus escape the fact that nature bears harder on women than it does on men,⁷ but virtue theory can certainly correct many of the injustices that the emphasis on women's rights is rightly concerned about. With very little amendment, everything that has been said above applies to boys and men too. Although the abortion decision is, in a natural sense, the woman's decision, proper to her, boys and men are often party to it, for well or ill, and even when they are not, they are bound to have been party to the circumstances that brought it up. No less than girls and women, boys and men can, in their actions, manifest self-centeredness, callousness, and light-mindedness about life and parenthood in relation to abortion. They can be self-centered or courageous about the possibility of disability in their offspring; they need to reflect on their sexual activity and their choices, or the lack of them, about their sexual partner and contraception; they need to grow up and take responsibility for their own actions and life in relation to fatherhood. If it is true, as I maintain, that insofar as motherhood is intrinsically worthwhile, being a mother is an important purpose in women's lives, being a father (rather than a mere generator) is an important purpose in men's lives as well, and it is adolescent of men to turn a blind eye to this and pretend that they have many more important things to do.

Much more might be said, but I shall end the actual discussion of the problem of abortion here, and conclude by highlighting what I take to be its significant features. . . .

The discussion does not proceed simply by our trying to answer the question "Would a perfectly virtuous agent ever have an abortion and, if so, when?"; virtue theory is not limited to considering "Would Socrates have had an abortion if he were a raped, pregnant fifteen-year-old?" nor automatically stumped when we are considering circumstances into which no virtuous agent would have got herself. Instead, much of the discussion proceeds in the virtue- and vice-related terms whose application, in several cases, yields practical conclusions. . . . These terms are difficult to apply correctly, and anyone might challenge my application of any one of them. So, for example, I have claimed that some abortions, done for certain reasons, would

be callous or light-minded; that others might indicate an appropriate modesty or humility; that others would reflect a greedy and foolish attitude to what one could expect out of life. Any of these examples may be disputed, but what is at issue is, should these difficult terms be there, or should the discussion be couched in terms that all clever adolescents can apply correctly? . . .

Proceeding as it does in the virtue- and vice-related terms, the discussion thereby, inevitably, also contains claims about what is worthwhile, serious and important, good and evil, in our lives. So, for example, I claimed that parenthood is intrinsically worthwhile, and that having a good time was a worthless end (in life, not on individual occasions); that losing a fetus is always a serious matter (albeit not a tragedy in itself in the first trimester) whereas acquiring an appendectomy scar is a trivial one; that (human) death is an evil. Once again, these are difficult matters, and anyone might challenge any one of my claims. But what is at issue is, as before, should those difficult claims be there or can one reach practical conclusions about real moral issues that are in no way determined by premises about such matters? . . .

The discussion also thereby, inevitably, contains claims about what life is like (e.g., my claim that love and friendship do not survive their parties' constantly insisting on their rights; or the claim that to demand perfection of life is to run the risk of missing out on happiness entirely). What is at issue is, should those disputable claims be there, or is our knowledge (or are our false opinions) about what life is like irrelevant to our understanding of real moral issues? . . .

Naturally, my own view is that all these concepts should be there in any discussion of real moral issues and that virtue theory, which uses all of them, is the right theory to apply to them. I do not pretend to have shown this. I realize that proponents of rival theories may say that, now that they have understood how virtue theory uses the range of concepts it draws on, they are more convinced than ever that such concepts should not figure in an adequate normative theory, because they are sectarian, or vague or too particular, or improperly anthropocentric. . . . Or, finding many of the details of the discussion appropriate, they may agree that many, perhaps even all, of the concepts should figure, but argue that virtue theory gives an inaccurate account of the way the concepts fit together (and indeed of the concepts themselves) and that another theory provides a better account; that would be interesting to see.

Notes

1. Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy & Public Affairs* 1, no. 1 (Fall 1971): 47-66. One could indeed regard this article as proto-virtue theory (no doubt to the surprise of the author) if the concepts of callousness and kindness were allowed more weight.
2. One possible qualification: if one ties the concept of justice very closely to rights, then if women do have a moral right to terminate their pregnancies it *may* follow that in doing so they do not act unjustly. (Cf. Thomson, "A Defense of Abortion.") But it is debatable whether even that much follows.
3. This is an assumption of virtue theory, and I do not attempt to defend it here. An adequate discussion of it would require a separate article, since, although most moral philosophers would be chary of claiming that intellectual sophistication is a necessary condition of moral wisdom or virtue, most of us, from Plato onward, tend to write as if this were so. Sorting out which claims about moral knowledge are committed to this kind of elitism and which can, albeit with difficulty, be reconciled with the idea that moral knowledge can be acquired by anyone who really wants it would be a major task.
4. Mary Anne Warren, in "On the Moral and Legal Status of Abortion," *Monist* 57 (1973), sec. 1, says of the opponents of restrictive laws governing abortion that "their conviction (for the most part) is that abortion is not a *morally* serious and extremely unfortunate, even though sometimes justified, act, comparable to killing in self-defense or to letting the violinist die, but rather is closer to being a *morally neutral* act, like cutting one's hair" (italics mine). I would like to think that no one *genuinely* believes this. But certainly in discussion, particularly when arguing against restrictive laws or the suggestion that remorse over abortion might be appropriate, I have found that some people *say* they believe it. . . . Those who allow that it is morally serious, and far from morally neutral, have to argue against restrictive laws, or the appropriateness of remorse, on a very different ground from that laid down by the premise "The fetus is just part of the woman's body (and she has a right to determine what happens to her body and should not feel guilt about anything she does to it)."
5. I take this as a premise here, but argue for it in some detail in my *Beginning Lives* (Oxford: Basil Blackwell, 1987). In this connection I also discuss adoption and the sense in which it may be regarded as "second best," and the difficult question of whether the good of parenthood may properly be sought, or indeed bought, by surrogacy.
6. I say "some evil has probably been brought about" on the ground that (human) life is (usually) a good and hence (human) death usually an evil. The exceptions would be (a) where death is actually a good or a benefit, because the baby that would come to be if the life were not cut

short would be better off dead than alive, and (b) where death, though not a good, is not an evil either, because the life that would be led (e.g., in a state of permanent coma) would not be a good.

I discuss this point at greater length in *Beginning Lives*.

Study Questions

1. According to Hursthouse, is the status of the fetus relevant to the rightness or wrongness of abortion?
2. According to Hursthouse, do women's rights have anything to do with the morality of abortion?
3. What connections does Hursthouse draw between good human lives and a decision about abortion?
4. Do you agree with Hursthouse that simply "having a good time" is a "worthless" pursuit?