

**THE ETHICS OF ABORTION AND THE NORMATIVE SIGNIFICANCE OF
PARENTHOOD**

PRABHPAL SINGH

Thesis submitted to the University of Ottawa
in partial fulfillment of the requirements for the
PhD in Philosophy

Department of Philosophy
Faculty of Arts
University of Ottawa

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ACKNOWLEDGEMENTS

I'd like to thank the following people for their work and support in helping me complete this project: My supervisor, Professor Andrew Sneddon, whose exhaustive and always expeditious feedback on early drafts, answers to questions, direction toward new threads of thought, and overall guidance were invaluable. Professor Nigel DeSouza, Professor Sophie Rietti, and Professor Valérie Daoust, for their constructive comments, which both guided and strengthened my work. I appreciate their efforts and am grateful to have had the privilege of working with them. I extend thanks to my fellow graduate students in the Department of Philosophy, who have been excellent colleagues and friends. And most importantly, I thank my parents, Hazara Singh and Kulwinder Basra, for always supporting me.

ABSTRACT

This thesis demonstrates the ethical relevance of parenthood, understood as a morally significant relationship, to thinking about the ethics of abortion to support an account of the moral permissibility of abortion and impermissibility of certain instances of infanticide through the lens of parenthood. It does so by showing how failure to attend to the normative significance of parenthood leads to problems, how these problems are addressed once this normative significance is recognized, defending this from objections, and presenting objections against anti-abortion positions.

Typically, questions about the ethics of abortion narrowly focus on the term of pregnancy, and thus narrowly on ethical considerations present between conception and birth. Traditionally, the ethical considerations that have received the most attention are the right to life and the right to bodily autonomy. However, there are further ethical considerations importantly relevant to the ethics of abortion beyond those present during the term of pregnancy. There are also importantly relevant post-birth consequences. Chief among the ethically relevant post-birth consequences is the undertaking of parenthood, and the moral right to choose parenthood, which is people's right to the autonomy to make the choices and decisions relevant to the process of undertaking the project of parenthood and becoming a parent where this right includes the right to make choices and decisions concerning beginning, continuing, or terminating the process of undertaking parenthood and becoming a parent.

The ethical importance of parenthood is shown in a few ways. The right to choose parenthood can serve as a basis for an argument for the moral permissibility of abortion. Also, theorizing about abortion in terms of a right to choose parenthood allows for

problematic analogies between abortion and infanticide to be dealt with such that it can be maintained that abortion is morally permissible, but infanticide is not. The ability to address the problem of analogies between abortion and infanticide demonstrates why the moral permissibility of abortion should be viewed through the lens of parenthood.

INTRODUCTION

The ethics of abortion is the site of enduring political controversy, social relevance, and philosophical interest. As with any ethical issue, a deep understanding will include an understanding of the relevant ethical considerations. In the case of the ethics of abortion, a deep understanding of the moral issue of abortion will require a recognition of what the relevant considerations are in order to arrive at any determination of the moral status of abortion.

The abortion issue has traditionally been framed as one concerning the state of pregnancy. After all, abortion is the termination of a pregnancy. It is clear why the right to bodily autonomy would be relevant to the ethics of abortion: pregnancy is a bodily condition, and questions of its termination would straightforwardly concern bodily autonomy. However, this common way of framing abortion has a significant flaw. It fails to attend to ethical considerations beyond the term of pregnancy.

There is more to the abortion issue than just what pertains to the managing of the bodily condition of pregnancy. In fact, there are ethically relevant considerations that have little to do with the body at all, and so do not directly concern bodily autonomy. Among the non-bodily considerations relevant to thinking about the ethics of abortion are post-birth consequences. These are the consequences of going through pregnancy and childbirth.

Chief among these consequences is the prospect of undertaking parenthood. I argue that the prospect of undertaking the project of parenthood and becoming a parent should be included within the range of important considerations relevant to thinking about the ethics of abortion. I do this by demonstrating how failing to recognize the morally significant relationship of parenthood has problematic implications.

Failing to recognize the relevance of parenthood leads to a problematic analogy between abortion and infanticide. It cannot be maintained that the situation of abortion and the situation of a parent committing the infanticide of their newborn are morally disanalogous unless the moral nature of parenthood is recognized.

Additionally, recognizing the moral nature of parenthood allows for an argument for the moral permissibility of abortion that does not appeal to the right to bodily autonomy, but rather the right to choose parenthood. The right to choose parenthood is people's right to make the choices and decisions relevant to the process of undertaking the project of parenthood and becoming a parent where this right includes the right to make choices and decisions concerning beginning, continuing, or terminating the process of undertaking parenthood and becoming a parent. This demonstrates how abortion can be thought of as a matter of things beyond the body, for the project of undertaking parenthood concerns a more general autonomy about people's future, the social relationships they create, and the moral obligations they undertake, rather than only how their bodies are used.

In addition to advancing an account of the moral permissibility of abortion through the lens of parenthood, I directly discuss the shortcomings of anti-abortion positions. I critique both those positions that argue for the moral impermissibility of abortion from fetal personhood as well as those positions which seek to establish the moral impermissibility of abortion without commitments to fetal personhood.

This thesis is organized into seven chapters followed by a conclusion. Chapter 1 introduces the main problem of analogies between abortion and infanticide. I argue that there is an analogy between the situation of abortion and the situation of a pregnant person committing the infanticide of their newborn. This represents a problem for those who wish

to maintain that abortion is morally permissible but infanticide is not. In chapter 2, I argue that the problematic analogy between abortion and infanticide outlined in chapter 1 can be resolved such that it can be maintained that abortion is morally permissible but infanticide is not because of the moral nature of parenthood. By appealing to the moral nature of parenthood, we expand the range of ethical considerations recognized to be relevant to the ethics of abortion. In chapter 3, I address objections to the argument from the second chapter.

Chapter 4 looks at the moral significance of parenthood for the ethics of abortion from a different angle. My argument in chapter 2 looks at the situations of a pregnant person having an abortion and a parent committing the infanticide of their child. This argument thus focuses on the actions of abortion and infanticide. My argument in chapter 4 also looks at abortion and infanticide but does so from the angle of the moral statuses of fetuses and newborns. I argue that because parenthood entails certain moral responsibilities, and the relationships a parent has with their child is distinct from the relationship a pregnant person has with any fetus they carry, newborns are the proper objects of parental responsibilities and have moral status that fetuses lack. This difference in moral status makes a difference for abortion and infanticide such that abortion is morally permissible, but infanticide is not. In chapter 5, I address objections to this argument in chapter 4.

Chapters 6 and 7 shifts focus to anti-abortion positions. Chapter 6 critically examines the substance view anti-abortion position, which is an anti-abortion position that depends on a particular account of fetal personhood. I show that this account is untenable. Chapter 7 critically examines the impairment argument for the impermissibility of

abortion, which is an argument that purports to establish the conclusion that abortion is wrong without commitment to fetal personhood. I show that defenses of the argument fail. All together, I show that anti-abortion positions fail regardless of their claims of fetal personhood.

I end with a conclusion section in which I review the main points and contributions of each chapter. I synthesize the main points of each chapter and provide an overall summary of how these points come together to demonstrate why it is important to expand the scope of what is taken to be ethically relevant to the question of abortion by including morally significant social relationships into our thinking about the ethics of abortion.

Much of this thesis is adapted from and further develops ideas and arguments from my previously published work on the topic of abortion. Chapters 1 through 3 are adapted the following papers:

- Singh, P. (Forthcoming). Abortion, Infanticide, and Choosing Parenthood. *Dialogue*, 1–26. doi:10.1017/S0012217324000064.
- Singh, P. (2022). Why there is no dilemma for the birth strategy: A response to Bobier and Omelianchuk. *Journal of Medical Ethics*, jme-2022-108813. <https://doi.org/10.1136/jme-2022-108813>

Chapters 4 and 5 are adapted from the following papers:

- Singh, P. (2020). Fetuses, newborns, & parental responsibility. *Journal of Medical Ethics*, 46(3), 188–193. <https://doi.org/10.1136/medethics-2019-105592>
- Singh, P. (2021). Defending the distinction between pregnancy and parenthood. *Journal of Medical Ethics*, 47(3), 189–191. <https://doi.org/10.1136/medethics-2020-106216>

- Singh, P. (2023). Orphans cannot be after-birth aborted: A response to Bobier. *Journal of Medical Ethics*, 49(2), 143–144. <https://doi.org/10.1136/medethics-2022-108400>

Chapter 6 is adapted from:

- Singh, P. (Forthcoming). The Substance View and Cases of Complicated Multifetal Pregnancy. *Journal of Bioethical Inquiry*

Chapter 7 is adapted from:

- Singh, P. (2022). Killing and impairing fetuses. *The New Bioethics*, 28(2), 127–138. <https://doi.org/10.1080/20502877.2022.2030507>

CHAPTER 1: THOMSON, ABORTION, AND INFANTICIDE

This chapter introduces the problem of analogies between abortion and infanticide. Abortion is a medical procedure performed for the purpose of terminating a pregnancy before birth and entails the death of the embryo or fetus. This can be done by taking certain medications, such as mifepristone or misoprostol, or by a surgical procedure. Infanticide is the killing of newborns or infants. I argue that there is an analogy between the situation of abortion and the situation of a pregnant person¹ committing the infanticide of their newborn. This represents a problem for those who wish to maintain that abortion is morally permissible but infanticide is not. Subsequent chapters will argue that this problem can be addressed by recognizing the moral nature of parenthood.

Are abortion and infanticide morally analogous? Some argue so. For example, Michael Tooley (1972) argues both abortion and infanticide are morally permissible because neither fetuses nor newborns satisfy the conditions required for a serious right to life. Jeff McMahan (2007) argues that there is no intrinsic difference between viable fetuses and premature infants, so it is difficult to accept that abortion after the point of viability can be permissible while denying that infanticide can be permissible. David B. Hershenov and Rose J. Hershenov (2017) argue that abortion and infanticide are both morally

¹ I use the terminology of “pregnant person” (as opposed to “pregnant woman”) because I take my analysis to be inclusive of and applicable to experiences of pregnancy in non-women. Feminist analysis should regard the profound effects of pregnancy on the lives of anyone that pregnancy takes place for, not just women, as important to the moral evaluation of abortion. I discuss this in more detail in chapter 2.

impermissible because fetuses and newborns share similar intrinsic moral features; so, because infanticide is wrong, abortion must be too. Alberto Giubilini and Francesca Minerva argue that if abortion is morally permissible, then what they call “after-birth abortion” (Giubilini & Minerva, 2013, p. 261) — the act of a parent committing the infanticide of their newborn for the typical reasons a pregnant person may have an abortion — should also be morally permissible for the same reasons that would justify abortion because fetuses and newborns are morally equivalent.

Those who accept that fetuses and newborns are morally equivalent take there to be relevant similarities between them, such as a lack of rational capacity, a lack of first-person experience, a lack of self-consciousness, a lack of a chain of memory, a lack of autonomy, a lack of a capacity for higher-order thinking, a lack of a capacity for moral responsibility, and a lack of a capacity for self-determination. Because fetuses and newborns are so similar in ways relevant to moral standing, they have equal moral status. From this supposed equivalence in moral status, it is reasoned that there are no morally relevant differences between the situations of a pregnant person having an abortion and a parent committing the infanticide of their newborn.

There is a challenge to explain how one can accept the permissibility of a pregnant person having an abortion while denying the permissibility of a parent committing infanticide, given the apparent lack of morally relevant differences between fetuses and newborns. An analogy between a pregnant person having an abortion and a parent committing the infanticide of their newborn would hold most firmly in cases of late-term abortions, as it is in these cases that fetuses and newborns are most similar. While late-term fetuses resemble newborns more closely than do earlier-term fetuses, the challenge also

includes explaining how aborting earlier-term fetuses is morally different from infanticide. This is because earlier-term fetuses also lack the same intrinsic moral features that late-term fetuses and newborns appear to have. Thus, the challenge is to explain how a pregnant person having an abortion at any stage is permissible while a parent committing infanticide is not.

One way to address this challenge is with an appeal to Judith Jarvis Thomson's (1971) argument for the permissibility of abortion. However, I argue that responses to the challenge of the analogy between abortion and infanticide that appeal to Thomson's argument for the permissibility of abortion cannot succeed because Thomson's argument allows for a parallel argument for the permissibility of infanticide, specifically infanticide via deprivation. This leads to a new analogy between abortion and infanticide based on parallel reasoning rather than a supposed equivalence in the moral status of fetuses and newborns.

Nevertheless, I argue that this problem can be addressed once greater attention is paid to the ethical significance of post-birth consequences, especially the prospect of undertaking parenthood, and the right to choose parenthood is recognized as a serious moral consideration in the ethics of abortion. Recognizing the right to choose parenthood fixes the problem because doing so allows for an account of the permissibility of abortion that can also explain the impermissibility of infanticide by appealing to the moral nature of parenthood. This account demonstrates the relevance and significance of post-birth consequences in thinking about the ethics of abortion.

Thomson argues that even if a fetus is a person or has the same right to life as persons, abortion is still morally permissible because a right to life does not entail a right

to occupy another's body against their will. To advance her argument, Thomson presents the following thought experiment:

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? (Thomson, 1971, pp. 48–49)

For Thomson, it would be permissible to unplug because the combination of the violinist's right to life and need to use your body does not entail a right to use your body against your will or have you surrender your right to bodily autonomy. This is because Thomson considers the right to life to be a negative right. Thomson says of 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? (Thomson, 1971, p. 55)

Thomson goes on to say, “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” (Thomson, 1971, p. 55). The right to life is not the right to be preserved. If it were, then the violinist would be entitled to continued use of your body. But the violinist has no such right, so he is not entitled to continued use of your body. Unplugging would not violate the violinist’s right to life because depriving him of continued use of your body would not deprive him of anything he has a right to in virtue of having a right to life. Imagine an analogous case of a person whose survival depends upon receiving an organ transplant. This person is not entitled to the use of another’s organs simply by virtue of their right to life and need for those organs.

The same is true in the case of abortion. The combination of a fetus’s right to life and need to use the pregnant person’s body does not entail a right to use and occupy the pregnant person’s body against their will or have them surrender their right to bodily autonomy. Despite leading to the death of the fetus, abortion does not violate a fetus’s right to life because a fetus’s right to life does not include a right to use or occupy another’s body against their will or have them surrender their right to bodily autonomy, and so depriving a fetus of use of a pregnant person’s body with an abortion does not deprive it of anything it has a right to in virtue of having a right to life.

Thomson’s argument concerns the contours of a right to life. The argument is not that a pregnant person’s right to bodily autonomy outweighs, is stronger than, or

circumscribes a fetus's right to life. Instead, it is that a right to life has specific content and does not include a right to just anything. It does not include a right to use another's body against their will or have them surrender their right to bodily autonomy.

The right to bodily autonomy is a moral claim concerning the authority people have over their bodies. It is people's right to govern with sovereignty their bodies and includes authority over whether to have their bodies used or occupied. It is best understood as a kind of property right people have over their own bodies. In Thomson's words,

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. (Thomson, 1971, p. 53)

The analogy between one's body and one's house captures the important sense in which the pregnant person has ownership over their body. Like ownership one may have over one's house, one has ownership over one's own body.

To further illustrate that the right to bodily autonomy is best understood as a property right in the context of Thomson's argument, we may look to Thomson's argument against the claim that a third party may not perform an abortion even if abortion is permissible.

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.” (Thomson, 1971, pp. 53–54)

For Thomson, third parties who claim that they may not perform an abortion because they cannot choose between a fetus and a pregnant person mistakenly take themselves to be impartial. We can choose between Jones and Smith in the coat case because the crucial difference between the two is that Smith owns the coat. In other words, the coat is Smith’s property. The sort of claim Smith has over his coat, or a homeowner has over their house, is a property claim because a person’s coat or house is their property. Thomson immediately compares Smith’s claim to his coat to women’s claims to their bodies. This strongly suggests that Thomson takes ownership of material property (coats, houses, etc.) to be analogous to ownership of one’s body. This strongly suggests that Thomson treats people’s bodies as their own property. Because of this, the sorts of claims people have over their bodies should be understood as property claims. Because a person’s body is their property, the right to bodily autonomy is best understood as a kind of property right.

Importantly, and as Kristen Hine (2021) argues, a pregnant person’s right to bodily autonomy includes not only authority over continued occupation but also authority over going through childbirth. It includes authority over going through induced birth or cesarean section because both procedures make use of one’s body in significant ways. As Claire Pickard notes, going through pregnancy and childbirth has ethical significance partly due to its great ethically relevant costs, including physical pain, risk of mortality, irrevocable changes to one’s body, and economic suffering (Pickard, 2020, pp. 209–210). For example,

Donna L. Hoyert (2023) finds that, in the US, the maternal mortality rate in 2021 was 32.9 deaths per 100,000 live births. Elizabeth G. Raymond and David A. Grimes (2012) find that childbirth is 14 times more deadly than induced abortion in the US. Pregnancy, childbirth, and postpartum care in the US costs on average \$18,865.00 and can cost as much as \$26,280.00 depending upon the type of delivery (Rae et al., 2022). Given the great costs at stake, it is clear that going through pregnancy and childbirth has great ethical significance, and because going through pregnancy and childbirth makes use of one's body in significant ways, the right to bodily autonomy includes authority over deciding whether to go through either.

Furthermore, the right to bodily autonomy does not include a right to the death of a fetus. While the pregnant person has authority over their body, this authority is not over the fetus itself. Once it no longer occupies a person's body, a fetus is no longer under the purview of what that person has authority over. Consider an example of a trespasser in a person's home. The homeowner has authority over their home. This authority is not over the trespasser themselves, but over one's home and includes the authority to decide who is welcome in it. The homeowner has the authority to remove the trespasser but has no authority over them once they have left. Similarly, the pregnant person does not have authority over the fetus itself, but does have authority over their own body, and this includes authority over whether their body continues to be occupied.

Both Mary Anne Warren (1973) and Bonnie Steinbock (2011) contend that Thomson's violinist thought experiment is only analogous to cases of pregnancies that arise unintentionally, such as accidental pregnancy despite the use of contraceptives or pregnancy due to rape, rather than pregnancy due to consensual sex. This is because you

were kidnapped, and the violinist is plugged into you without consent. However, how the violinist came to be plugged into you, whether consensually or not, is irrelevant. What matters is that the violinist is a person with a right to life who needs to use another's body for their survival but is not entitled to do so. Consider an alternative violinist case in which you agree to have the violinist plugged into you but then change your mind. Would unplugging be permissible if you initially gave consent but then changed your mind? While you did initially give consent, consent to have one's body used in this way can be withdrawn. Consider an analogy with sexual consent. Consent is needed to use another's body for sexual pleasure, but consent to have one's body used for sexual pleasure can be permissibly withdrawn at any point. A person is not entitled to continue to use another's body for sexual pleasure without consent, including when consent was initially given but later withdrawn. Similarly, consent to remain plugged can be withdrawn, meaning unplugging even if you initially consented would be permissible. The relevant aspect of the violinist thought experiment is not the circumstances of how the violinist became plugged to you, but that the violinist's right to life and need does not entail a right to use and occupy your body or have you surrender your bodily autonomy.

In the case of abortion, supposing Thomson's argument is correct, the circumstances of how a pregnancy arose are also irrelevant because what matters is that the fetus's right to life and need does not entail a right to use and occupy another's body against their will or have them surrender their bodily autonomy, independently of whether the pregnancy was accidental or due to rape. The same is true of pregnancies that arise due to consensual unprotected sex. This is because, as Margaret Olivia Little argues, consenting to unprotected sex while knowing its risks does not entail consenting to gestation. Little

states, “It’s just false that consent to sex means consent to gestate” (Little, 1999, p. 303). When one consents to sex and is informed of the risk of impregnation, they have only consented to sex knowing the risk of impregnation, and nothing more. The consent one gives to their sexual partners for unprotected sex does not transfer across parties to the fetus and transform into consent to use and occupy one’s body. The permissibility of abortion is independent of whether pregnancy arose accidentally, by rape, or by consensual sex.

A tension arises in Thomson’s expression of her views when she claims that not all abortions are permissible and gives an example of when abortion would be impermissible. Thomson states, “while I do argue that abortion is not impermissible, I do not argue that it is always permissible” (Thomson, 1971, p. 65). Thomson goes on saying, “a sick and desperately frightened fourteen-year-old schoolgirl, pregnant due to rape, may *of course* choose abortion” (Thomson, 1971, p. 65), and,

It would be indecent in the woman to request an abortion, and indecent in a doctor to perform it, if she is in her seventh month [of pregnancy], and wants the abortion just to avoid the nuisance of postponing a trip abroad.
(Thomson, 1971, pp. 65–66)

Thomson specifies that abortion in the seventh month of pregnancy done for selfish or frivolous reasons, such as wanting to avoid the inconvenience of postponing a vacation, which would count as a late-term abortion, would be impermissible, but would be permissible in the case of a young and frightened victim of rape. But this is in tension with Thomson’s argument. It does not matter that the 14-year-old girl is frightened or that her pregnancy is due to rape. These circumstances are not the reasons that make it permissible for her to have an abortion. It is permissible for the raped and frightened 14-year-old to

have an abortion independently of her being young, frightened, or being a victim of rape because the fetus's right to life and need does not entail a right to use and occupy her body against her will or have her surrender her right to bodily autonomy independently of the circumstances of her pregnancy.

The same is true for the woman in her seventh month of pregnancy who has an abortion for frivolous reasons. Many defenders of the permissibility of abortion make exceptions for late-term abortions just as Thomson does. But such an exception is inconsistent with Thomson's reasoning. Despite Thomson claiming otherwise, her argument implies the moral permissibility of late-term abortion. Consider why one might take late-term abortions to be morally impermissible. Plausibly, it is because the fetus has developed into something that has a right to life. We might think then, that if it is wrong to have a late-term abortion, it would be because it violates the fetus's right to life. But Thomson's argument is exactly that abortion does not violate the fetus's right to life because abortion does not deprive a fetus of anything it has a right to in virtue of having a right to life. The stage of pregnancy is irrelevant because, even if a fetus has developed into a thing with a right to life, such as at the later stages of pregnancy, its right to life and need to use another's body does not entail a right to do so. Thomson's reasoning makes clear the permissibility of late-term abortion because the stage of pregnancy is irrelevant to what matters morally, namely whether a fetus's right to life is violated. There is no morally relevant difference between a sick and frightened 14-year-old pregnant due to rape having an abortion and a woman in her seventh month of pregnancy having an abortion for frivolous reasons because the reason that abortion is permissible applies to both cases. On Thomson's reasoning, and despite her claim to the contrary, abortion in both cases would

be permissible because in neither case does abortion deprive a fetus of anything it has a right to in virtue of having a right to life.

Notably, Thomson uses the word “indecent” rather than wrong, immoral, or impermissible to describe the decision to have an abortion in the seventh month of pregnancy to avoid any inconvenience to one’s vacation plans (Thomson, 1971, pp. 65–66). This leaves room for interpretation. One interpretation is that indecency is distinct from impermissibility. However, the example of the seven-months pregnant woman follows Thomson’s claim that she does not take abortion to always be permissible. Thomson must mean to raise the example of a seven-months pregnant woman as an example where abortion would be impermissible. So, the word “indecent” in this context must mean “impermissible” given Thomson’s aim is to explain how she does not take abortion to always be permissible. This is not to say that the notion of indecency plays no role in Thomson’s thought. Thomson discusses the “Minimally Decent Samaritan” (Thomson, 1971, p. 62) to capture the idea that there are standards of conduct besides mere moral permissibility. However, if there is a distinction between indecency and impermissibility in this context, then Thomson’s claim that some abortions are indecent is irrelevant, for the issue at hand is the permissibility of abortion rather than its decency. So, either the use of the word “indecent” simply means “impermissible” or Thomson is making an irrelevant claim. Given the context in which it appears, Thomson’s use of the word “indecent” should be interpreted as meaning “impermissible.”

The standard response from Thomson’s argument to the challenge of the analogy between abortion and infanticide is to appeal to the relevance of a right to bodily autonomy

in the ethics of abortion and its irrelevance in the ethics of infanticide. Justin Oakley captures the gist of such responses by stating,

... the fact that a newborn infant is no longer inside the woman's body shows that a women's [sic] right to bodily autonomy is not relevant to the ethics of infanticide, and this is a further reason why, contrary to Giubilini and Minerva, justifications for abortion are not straightforwardly transferable to infanticide with newborn infants. (Oakley, 2012, p. 60)

Similarly, Michele Loi argues that abortion differs from allegedly analogous cases of infanticide (or "postnatal abortion" in Loi's terms, in reference to Giubilini's and Minerva's "after-birth abortion") because in cases of abortion, including late-term abortions, fetuses are in an exclusive physical relationship with the pregnant person carrying them, whereas newborns are already outside of that person's body. Loi claims this exclusive physical relationship gives the pregnant person authority over the fetus as long it continues to occupy their body (Loi, 2013, p. 68). But this view of the scope and reach of the pregnant person's authority is mistaken. As mentioned, it is not exactly that the pregnant person has authority over the fetus. Instead, the pregnant person has authority over their own body and the fetus is occupying a space that is within the domain of the pregnant person's authority.

Rather than disputing the supposed equivalence in intrinsic moral features between fetuses and newborns, responses that appeal to Thomson's argument focus on what sorts of ethical considerations are relevant to thinking about the acts of abortion and infanticide. The right to bodily autonomy is relevant in thinking about the ethics of abortion but is not similarly relevant in thinking about the ethics of infanticide.

However, such responses fail. Close examination reveals that Thomson's reasoning can be used to construct a parallel argument for the permissibility of infanticide via deprivation. This parallel argument will constitute a new analogy between abortion and infanticide. Unlike earlier analogies, this new analogy does not depend upon a supposed equivalence of the intrinsic moral features of fetuses and newborns, but instead on parallel reasoning about the contours of a right to life to show that both abortion and infanticide are permissible.

While the right to bodily autonomy has relevance in the ethics of abortion but not in the ethics of infanticide, it does not follow from this difference that there is a disanalogy between the two. To have a right to bodily autonomy is to have certain moral claims over one's body. Thomson's core argument is one concerning the contours of a fetus's right to life as it relates to the specific claim pregnant people have regarding the use and occupation of their bodies. But people's bodies are not the only things they have moral claims to or over. People also have moral claims to things such as their time, money, effort, energy, or other material resources.

By recognizing that there are other things people have moral claims over besides their bodies that matter, one can construct a parallel argument for the permissibility of infanticide via deprivation. Consider what it takes for parents to raise a newborn. Raising a baby comes with immense social, personal, emotional, and economic costs. Parents spend life-changing amounts of time, money, and both physical and emotional energy to raise their babies. Such costs are often greater for women, who may have to make personal or career sacrifices to bear and raise children, and in many cultures often face significant social pressures to conform to gender roles and become mothers.

All these costs are spent for the purpose of raising children as per conventional notions of parental responsibility. But what entitles a newborn to their parents' time, money, effort, energy, property, or other material resources? Because the right to life is a negative right, it is not the right to be preserved. Insofar as another's time, money, effort, energy, property, or other material resources are required for preservation, a right to life understood as a negative right does not entitle one to these things. So, a right to life does not entail a right to others' property, including their time, money, effort, energy, property, or other material resources. If a newborn's right to life does not entail the right to others' property, and the use of another's property is needed for sustaining its life, then a newborn's right to life does not entail a right to that which is required for sustaining its life. From this, it can be argued that it is permissible for a parent to commit the infanticide of their newborn via deprivation of the resources needed for its survival because a newborn's right to life does not entail a right to those resources. Because the parent has claims over the necessary resources required for the newborn's survival, they could choose to keep rather than provide those resources, even if doing so would lead to the death of their newborn, and just like with abortion, would not be depriving it of anything it has a right to in virtue of having a right to life.

While there may be a morally relevant distinction between cases of actively killing and passively letting die, it still seems that if a parent of a newborn withheld the resources necessary for its survival leading to its death, they have killed that newborn. If the deprivation was non-accidental, then I see no moral difference between intentionally depriving a newborn of the resources necessary for its survival and actively killing it. For

this reason, a parent non-accidentally depriving a newborn of the resources necessary for survival leading to its death can be considered an instance of infanticide.

This comparison between a pregnant person depriving a fetus of continued use and occupation of their body and a parent depriving a newborn of the resources needed for survival seems to depend upon a right to autonomy being comparable to a right to property. As discussed in Section 3, the right to bodily autonomy is a property right as well because people have ownership over their bodies and their bodies are their own property. Ownership in the case of one's body is relevantly similar to ownership in the case of one's property because people's bodies are their property.

Abortion and infanticide remain analogous in the following way: the right to life has specific content that does not include a right to others' property. If the content of a right to life does not include a right to another's property, then a fetus's right to life does not entail a right to the pregnant person's body or have them surrender a right to bodily autonomy, and a newborn's right to life does not entail a right to its parent's resources or have them surrender their property rights because both a pregnant person's body and a parent's resources are their respective property. Depriving a fetus use of a pregnant person's body when doing so would lead to its death is not a violation of its right to life because it does not deprive the fetus of anything it has a right to in virtue of having a right to life. Analogously, depriving a newborn use of its parent's resources when doing so would lead to its death is not a violation of its right to life because it does not deprive the newborn of anything it has a right to in virtue of having a right to life. Abortion deprives a fetus of use of another's body but does not violate its right to life, so abortion is morally permissible. Analogously, infanticide via deprivation deprives a newborn of the things it

needs to survive but does not violate the newborn's right to life, so infanticide via deprivation is morally permissible. If this is the case, those who accept Thomson's argument cannot maintain that a pregnant person having an abortion is permissible and a parent committing the infanticide of their child is not.

CHAPTER 2: THE RIGHT TO CHOOSE PARENTHOOD AND THE MORAL NATURE OF PARENTHOOD

This chapter argues that the problematic analogy between abortion and infanticide outlined in chapter 1 can be resolved such that it can be maintained that abortion is morally permissible but infanticide is not because of the moral nature of parenthood. By appealing to the moral nature of parenthood, we expand the range of ethical considerations taken to be relevant to the ethics of abortion.

The problem outlined in chapter 1 is a result of treating the ethics of abortion as primarily a matter of a right to bodily autonomy. To address this problem, Thomson's argument will need to be revised. Thinking about the ethics of abortion needs to extend beyond the narrow focus on bodily matters, such as pregnancy, childbirth, and the right to bodily autonomy. Given that abortion is the termination of the costly and risky bodily condition of pregnancy, it is no wonder that thinking about the ethics of abortion focuses on the period of pregnancy. However, approaching the ethics of abortion with such a narrow focus means inadequately attending to all relevant ethical considerations. It especially means inadequate attention to those ethical considerations that apply beyond the term of pregnancy and do not directly have to do with bodily matters.

The question of whether to end one's pregnancy with an abortion does not only concern autonomy over and effects on one's body, but also the effects on one's life. Susan Sherwin argues that, from a feminist perspective, the profound effects of pregnancies on women's lives and that pregnancy takes place in women's bodies is central to the moral evaluation of abortion (Sherwin, 1991, pp. 330–331). Sherwin explicitly makes this claim only about women's lives and emphasizes the gendered nature of pregnancy by stating,

“Gender-neutral accounts of pregnancy are not available; pregnancy is explicitly a condition associated with the female body” (Sherwin, 1991, p. 331).

But presumably feminist analysis should regard the profound effects of pregnancy on the lives of anyone that pregnancy takes place in, not just women, as important to moral evaluation of abortion. Women’s experience of pregnancy matters morally because they *experience pregnancy*, not because they are women. While most people who can experience pregnancy are women, not all women can experience it and not all people who can experience it are women. For example, some transgender men or trans-masculine people experience pregnancy. There is no reason to think that the experience of pregnancy for transgender men or trans-masculine people does not have profound effects on their lives, or that the effects are not important to moral evaluation of abortion in cases where the pregnant person is not a woman. So, the perspective that pregnancy has profound morally relevant effects on a pregnant person’s life applies to anyone who can be pregnant, not only women.

The problem with Sherwin’s perspective is that it conflates gender with sex. By claiming that no gender-neutral account of pregnancy is available because pregnancy is a condition exclusive to female bodies and speaking only about the effects of pregnancy on women’s lives, Sherwin conflates the gender category “women” with the biological sex category “female.” But the distinction between gender and sex has longstanding importance in feminist thought, especially in critique of biological determinism.

Biological determinism has been described as the general view that biology is destiny. More specifically, it is the view that biological facts explain social and psychological differences in behaviour between men and women. Lesley Rogers notes that

in the 1970s biological sex differences were used to argue that women could not be competent pilots due to their menstrual cycles making them hormonally unstable and therefore less able to perform their duties compared to men (Rogers, 1999, p. 11). Underlying this thought is the idea that biological sex differences necessitate social and psychological differences between men and women. In order to distinguish biological differences from social ones, feminists drew a distinction between biological traits and the concepts of masculinity and femininity. For example, Gayle Rubin employs what is called a “sex/gender system” which is “a set of arrangements by which the biological raw material of human sex and procreation is shaped by human, social intervention” (Rubin, 1975, p. 165). Sex is understood as biological, but gender is distinct, for it is understood to be the social interpretation of biological sex traits.

Despite its importance in the history of feminist thought, the distinction between sex and gender has recently been criticized. For example, Alex Byrne has argued that there is no distinction between sex and gender categories and that women are defined as adult human females (Byrne, 2020). For Byrne, being female is a necessary condition for being a woman, meaning that being a woman is dependent upon having biological or anatomical features that would have one be classified as female, and the category “woman” is a biological category that does not admit of any interpretation as or also as a social category.

Byrne’s account has been shown to be false.² One major issue is that it cannot remove the role of social interpretation in constructing gender. If the gender category “woman” is defined as the category of adult human females, then the gender category

² See, Robin Dembroff (2021) and Rebecca Mason (2022).

“woman” is necessarily constructed by the social factor of adulthood. As evidenced by varying social standards of adulthood across social contexts, “adult” is a social construction. For example, In Canada, adulthood is determined by age. Anyone 18 years or older is considered an adult, and anyone younger is not. However, In Egypt, anyone 21 years or older is considered an adult, and anyone younger is not. Imagine now a 19 year old Canadian travels to Egypt. Do they remain an adult once there? They are an adult in Canada but are not an adult in Egypt. Something about them, their adulthood status, has changed, but they have not undergone any biological changes. The change in social context is what changes the person from an adult to not.

If the concept of adulthood is a social one, and the gender category of “woman” is defined as “adult human female”, then that gender category is socially constructed, for it depends on a social concept. This implies that sex and gender are distinct. A person can fall under the sex category of “female” without falling into the gender category of “woman” if they are, for example, children. Tangentially, this has the consequence that the gender binary, a proposition that Byrne also defends, is false. The gender binary is the idea that there are only two sexes, male and female (Byrne, 2018). And because Byrne rejects the distinction between gender and sex, to be a male is to be a man, and to be a female is to be a woman. Suppose for a moment gender and sex are equivalent. How are human female children to be classified? They are not males, so cannot be men, but they cannot be women either despite being female because they are not adults. To account for human female children, there must be at least one other gender category, “girls”. But if this is the case, then either, Byrne’s view on the distinction between sex and gender is false, or Byrne’s view on the gender binary is false. If the former, then the historically important feminist

distinction between sex and gender resists Byrne's critique. If the latter, then the door opens to a variety of gender categories, where the difference between each category depends on a social concept, such as adulthood, to constitute it. This implies that gender is distinct from sex because a person classified as a "woman" or a "girl" is distinguished as such not by their biological sex classification "female" but by the social interpretation of their age and the status of "child" or "adult" it grants them in a social context.

Understood as the social interpretation of the sexed body, gender is socially constructed. A thing is socially constructed if it is constituted by social forces. Gender as a social construct exhibits the following dependence relation: "F constitutively depends on individualistic/social entity G if and only if the continued existence of G is a necessary condition for the continued existence of F" (Harp & Khalifa, 2017, p. 263). What particular social entities or forces construct gender is a further debate. From a feminist perspective, the sexed body is the site at which gender is socially constructed.

If, in the context of pregnancy and abortion, women are understood just as female bodies, then to be a woman just means to be female, and so womanhood is biologically determined. It is hard to see how Sherwin's perspective can count as a feminist one if it implies biological determinism and fails to recognize the important feminist distinction between sex and gender.

A defensible analysis of pregnancy and abortion will not imply biological determinism or disregard the important distinction between sex and gender. Contra Sherwin, there must be a gender-neutral account of pregnancy available. If no gender-neutral account is available, then no account of pregnancy that accounts for both women's pregnancies and non-women's pregnancies (such as transgender men's or trans-masculine

people's pregnancies) is available. But, if no such account is available, then any account of pregnancy will fail, as there will always be some instance of pregnancy that is left unaccounted for. For example, a non-gender-neutral account of pregnancy which only accounts for women's pregnancies fails to account for non-women's pregnancies. So, either a gender-neutral account of pregnancy is available, or no successful account of pregnancy is available. There must be some successful account of pregnancy available, and the set of people who can experience pregnancy includes both some women and some non-women, so there must be a successful explanation that accounts for the experiences of both women and non-women. So, there must be a gender-neutral account of pregnancy available.

Because a gender-neutral account of pregnancy is available, and pregnancies have effects on the lives of anyone who is pregnant, regardless of gender, I reject Sherwin's perspective due to its exclusion of non-women's experience of pregnancy. Instead, my perspective is inclusive of all those who can experience pregnancy and I regard pregnancy as having profound effects on the lives of anyone pregnancy takes place in, not just women, and regard these effects as important to the moral evaluation of abortion, including cases of abortion where the pregnant person is not a woman.

One of the most important effects of pregnancy on a person's life is the creation of the prospect of undertaking parenthood. This prospect and its realization can have enormously consequential effects on a person's life and so is something ethically considerable to the question of abortion. This is not to suggest that the right to bodily autonomy is not an important consideration to abortion, or that bodily autonomy does not matter. Instead, it is to say that there are further considerations in addition to the right to

bodily autonomy relevant to thinking about the ethics of abortion that are ignored if one narrowly focuses on the term of pregnancy. To have a broader and more complete picture of what matters when thinking about the ethics of abortion, the set of considerations taken to be relevant must include the consequential prospect of undertaking parenthood.

The prospect of undertaking parenthood has life-changing implications. As such, there are certain kinds of moral rights that people have that are pertinent to this prospect. A pertinent kind of rights are what Andrew Sneddon calls “self-rights” (Sneddon, 2013, p. 193). Self-rights are those rights that concern the sorts of claims that constitute our general authority over ourselves. This general authority concerns the claims that people have over their self-formation. The project of self-formation includes what sorts of social roles, relationships, and responsibilities people take on as they endeavour to author the story that is their own lives. For Sneddon, the right to bodily autonomy is both a self-right and a property right because we have both kinds of claims over our own bodies (Sneddon, 2013, p. 193). The self-right relevant to the prospect of undertaking parenthood is the right to choose parenthood. The right to choose parenthood is people’s self-right to choose to take the steps that would result in them becoming parents. It is people’s right to make the choices and decisions relevant to the project and process toward the end of becoming a parent. It relates to people’s reproductive freedom to decide for themselves whether becoming parents or creating new token relationships of the type “parenthood” (such as in the case of people who are already parents) is something they want to do as they engage in the project of self-authorship, which includes the capacity to define and form one’s identity, sense of self, and social relations. The right to choose parenthood is a self-right because it concerns a claim about our general autonomy over our self-formation, namely whether to

undertake the personally, socially, economically, legally, and morally significant endeavour that is parenthood, and includes decision-making rights concerning the beginning, continuation, or termination of the process toward becoming a parent.

By “parenthood,” I do not mean a mere biological relationship. Of course, anyone who procreates has in a biological or genetic sense become a parent because they have produced biological offspring. The sense of parenthood I mean is not biological or genetic, but normative. This sense of parenthood has to do with those particular social roles, norms, and responsibilities concerning raising and taking care of children. Mere biological parenthood is neither necessary nor sufficient for normative parenthood. This is because there are parents who have no biological or genetic relationship with their children and biological progenitors who are not parents to their offspring in a normative sense. Adoptive parents are an example of the former and sperm donors are an example of the latter.

This however is not to say that biological connections have zero significance for parenthood. While it is not necessary or sufficient for parenthood, the biological process of procreation is the most common way people become parents. Who is and is not differentiated as a parent is socially dependent because it depends upon social norms that tie biological reproductive processes to social roles, relationships, and responsibilities. It is the social significance that is given to the biological process, rather than the biological process itself, that makes it relevant for who is a parent. We can imagine a society where the role of parent is assigned to, say, those deemed to have the greatest childrearing skills. In such a society, parents are distinct from biological progenitors. The social norms that concern who is a parent in such a world do not take biological connections to be a factor. Thus, biological connections only have significance for parenthood contingent upon such

connections having certain social significance. Parenthood is thus ultimately to be understood in social rather than biological terms as constructed by social norms about who has rights and responsibilities for childrearing.

Also consider the other way people typically become parents: adoption. Adoptive parents are parents, even if they have no biological connections to their children. This is because there are socio-legal norms that govern the social practice of adoption, which means that people who adopt are parents. This further shows why parenthood is ultimately to be understood in social rather than in mere biological terms because biological connections are only meaningful for parenthood if there are social norms that treat it as something meaningful for who is a parent.

This analysis of parenthood as social rather than biological is consistent with Joseph Millum's conventional-acts account of the acquisition of parental responsibilities (Millum, 2018, p. 79). For Millum, parental responsibilities "are taken on by individuals through acts whose meaning is determined by social convention" (Millum, 2018, p. 79). Millum also argues that parenthood also comes with parental rights and offers an account of how these rights are acquired. Millum argues for what he calls an "investment theory" of parental rights (Millum, 2018, p. 24). According to the investment theory of parental rights, parental rights are generated by the performance of parental work. This theory is based on what Millum calls the investment principle which states, "Ceteris paribus, the extent of an agent's stake in an entity is proportional to the amount of appropriate work he or she has put into that entity" (Millum, 2018, p. 25). Following this principle, it is primary caregivers who have invested substantial parenting work into a child that are the holders of parental rights.

Millum's account of parental rights raises interesting questions. Consider a case in which the functional primary caregiver for a child is a third party, such as the child's grandparent or sitter. We can a child whose parents are so busy that the child ends up being raised by some third party. Intuitively, we may not want to say the third party is the child's parent, even if they were functionally the child's primary caregiver. But on Millum's account, the third party would at least have parental rights, even if they are not the child's parent, in virtue of having invested parental work into the child. Millum is open to the possibility that parents that overuse "proxy parents" are liable to fail to fulfil some parental responsibilities, which undermines rather than promotes their parental claims, including claims to parental rights (Millum, 2018, p. 33).

Nevertheless, my focus is less on the acquisition and nature of parental rights and more on the nature of parental responsibilities. Taking on parental responsibilities means becoming a parent, and vice versa. So, becoming a parent is dependent upon individuals performing acts whose meaning is determined by social convention that mean one takes on the role of parent. These social conventions are social norms and are dependent on social context. While norms of parenthood and what acts count as conventions with meaning related to the taking on of parental responsibilities may differ from one society to another, their recognized meaning within a particular social context is what makes them a convention within that context.

Deciding whether to have an abortion is in large part a question of deciding whether to undertake parenthood. This is because not having an abortion will likely mean that one will become a parent. The prospect of becoming a parent underscores the moral significance of not aborting a pregnancy. As Elizabeth Harman states, "Creating a person

always involves occurrences of great moral weight. Not only does the pregnant woman's own life change, but her moral responsibility to others changes as well" (Harman, 1999, p. 323). The most pertinent changes come as a result of becoming a parent; failure to abort a pregnancy has moral significance partly because it likely brings about the significant moral relationship that is parenthood.

There are many reasons that someone might want to avoid undertaking parenthood. Perhaps one is not in a financial position to raise a child. Perhaps one feels insufficiently mature to raise a child or does not want to take on those responsibilities. Perhaps one simply does not ever want to raise children. In any case, by choosing to abort, one is deciding to avoid taking on a particular social role, a set of responsibilities, and a new social relationship.

Respecting people's right to choose parenthood means respecting their decisions regarding taking on the role of parent. Because the right to choose parenthood concerns the choice of whether to take or continue to take steps toward becoming a parent, it is important to understand what kind of choice is being made and when it can be made. Obviously, it is not a choice in the sense that one simply declares they choose parenthood and thus becomes a parent. Instead, the relevant choice is in actuality a series of choices and decisions made as part of the project and process of becoming a parent.

Consider the two aforementioned ways people most commonly become parents: biological procreation and adoption. As mentioned, both ways are to be understood in social terms because social norms dictate whether either has any meaning for people becoming parents. Both are processes that require a series of choices and decisions which aim at becoming a parent.

In the case of a male and female agreeing to have a child through biological procreation and having unprotected sex with that goal in mind, the choices and decisions are different for males and females simply due to facts about human reproduction. Both parties have decision-making power when it comes to agreeing to engage in sexual intercourse for the purpose of reproduction and becoming parents. It is within both the male's and female's rights to agree to try to become parents this way. However, once the female is pregnant, the relevance of the male's right to choose parenthood is exhausted because there are no further choices or decisions within the male's rights to make concerning the biological reproductive process. As mentioned, exercising the right to choose parenthood is about the choices and decisions people make in the project and process of becoming parents. When the method of becoming a parent is through unprotected sex, there is an asymmetry in the set of choices and decisions between males and females. While both can consent to unprotected sex with the goal of having a child, only the female can consent to gestation and childbirth because the male is not capable of becoming pregnant and giving birth. So, the choices and decisions a male can make that are instances of exercising his right to choose parenthood in a situation where parenthood would emerge through biological procreation are whether to agree to unprotected sex, whereas the female has this choice but also the choice to continue a pregnancy and go through childbirth. So, while both males and females have the right to choose parenthood, when it comes to becoming a parent through the biological procreation, the asymmetrical nature of the biological human reproductive process means that there is asymmetry with what choices and decisions bear are ones relevant to the exercising of one's right to choose parenthood.

At this point, we may ask whether the male's autonomy over the decision to undertake parenthood would extend into the term of pregnancy. This would present a problem where it would seem that the male has autonomy over the female's pregnancy. Imagine a case in which, after a female has already become pregnant, the male partner no longer wishes to become a parent. It would seem that if the male has a right to choose parenthood, it might be within his rights to make choices regarding the female continuing her pregnancy, which seems like it undermines the female's autonomy. In such cases where it appears that two people's rights to choose parenthood seem to clash, any conflict is readily resolved by considering each party's other relevant rights. In arguing for the relevance and significance of the right to choose parenthood to the ethics of abortion, I do not argue that the right to choose parenthood supplants other relevant considerations, such as the right to bodily autonomy. The right to choose parenthood is relevant and significant as is the right to bodily autonomy, and what I argue does not imply otherwise. So, when the male's and pregnant female's rights to choose parenthood are at odds, it is the pregnant female's body that is used and occupied, meaning that the pregnant female's right to bodily autonomy is relevant. In cases where a male's right to choose parenthood is at odds with a pregnant female's right to choose parenthood, the male's autonomy does not extend over the female's pregnancy because it is her body that is being used and occupied, not his. Thus, the pregnant female person has a claim to her body, and her right to bodily autonomy functions as a tiebreaker, so to speak, in such cases where rights conflict.

A potential consequence of what I say is that it is less clear how unwilling prospective fathers can be held responsible for child support. For example, if a male and female have consented to unprotected sex, but not for the purpose of having a child, and

the female becomes pregnant and chooses to go through with it, how could the male be held responsible for child support given that he did not consent to becoming a parent? A female consenting only to unprotected sex does not entail consenting to gestation or consenting to parenthood, so neither should a male consenting only to unprotected sex entail consenting to parenthood. Similar arguments have been made by Steven D. Hales (1996), Sally Sheldon (2003), and Elizabeth Brake (2005), all of whom argue that unwilling fathers should not be obligated to provide child support. Further, Ezio Di Nucci (2014) argues that prospective mothers can sometimes wrong prospective fathers by bearing children. On the contrary, Peter Alward (2012) argues it is not unfair to an unwilling father that their pregnant female partner does not abort a pregnancy, and unwilling fathers still have parental support obligations because an obligation to aid falls upon any person who intentionally and knowingly creates those circumstances of need.

The issue of unwilling fathers as it relates to the right to choose parenthood is a question of what is included in this right. I defined the right to choose parenthood as people's right to make the choices and decisions relevant to the process of undertaking the project of parenthood and becoming a parent where this right includes the right to make choices and decisions concerning beginning, continuing, or terminating the process of undertaking parenthood and becoming a parent. In short, it is the right to pursue parenthood. There are clear differences in how parenthood is pursued. Biological males do not become pregnant, and so there is a difference in what the pursuit of parenthood is like between males and females. Because males do not get pregnant, autonomy over choices and decisions concerning pregnancy, including the termination of pregnancy, are not within their rights. It is not within a male's right to choose parenthood to decide how a

pregnant female exercises her right to choose parenthood. Due to biological differences, there will be asymmetry.

If there is an equal right to choose parenthood for both males and females, then there must be symmetry between the two concerning consenting to parenthood. Consenting to unprotected sex with the knowledge that it may lead to pregnancy does not imply consent to going through with pregnancy and undertake parenthood. This applies to those who become pregnant and those who do not, including males who consent to unprotected sex but not to undertaking parenthood. Just as a pregnant person who consented to unprotected sex but not to pregnancy and parenthood exercises their right to choose parenthood by having an abortion, a male who consents to unprotected sex but not to parenthood exercises his right to choose parenthood by choosing to not take on the role of father.

In the case of a pregnant female who wants to go through with the pregnancy and have a child and her male partner who is unwilling to become a father, if the right to choose parenthood is symmetrical, then it seems that it should be within the male's rights to abandon his partner and leave her to be a single parent. This exemplifies what is at stake with the question of the rights of unwilling parents. For Alward (2012), it is not unfair to the unwilling male that his partner goes through with the pregnancy, has a child, and has the male be responsible for financial support for the child. This is because the unwilling father created the conditions for need by making the female pregnant. Because the male is responsible for creating the conditions in which a child would be in need, the male can be held responsible for providing the needed support. So, while the unwilling father has a right to choose parenthood, if we accept Alward's view on the rights of unwilling fathers, then

this right does not include the right to avoid providing support to a child whose condition of need was brought about by the unwilling father.

However, whether there is a condition of need is not solely the male's responsibility. The pregnant woman also bears responsibility for creating a condition of need for a child by going through with pregnancy and childbirth and bringing a child into the world. The child finds itself in a condition of need when brought into the world, but the child is only brought into the world due to the actions of both the male and the female. The father is responsible for making the female pregnant and the female is responsible for going through with pregnancy and childbirth. This means that both are jointly responsible for creating the conditions of need.

If the male never impregnates the female, the condition of need for the child never emerges. But even if the male does impregnate the female, the conditions of need are not certain to arise. They may still not arise if the pregnant female decides not to go through with pregnancy and childbirth and instead have an abortion. Thus, there are choices available to the pregnant female that can prevent the conditions of need. Contra Alward, it may be argued that because it is within the pregnant female's power to prevent the conditions of need from arising, such as by having an abortion, it is unfair to the unwilling male if she makes him a father responsible for financial support against his will. The conditions of need arise from the pregnant female's choice not to terminate pregnancy, and so she ought to bear some responsibility as well. While it is within her rights whether to abort or not, it is not within her rights to hold the unwilling male responsible if she chooses not to abort.

The point is perhaps clearer in the reverse case of a willing father and an unwilling female. Imagine a case in which a couple finds they are pregnant. The male is excited having heard this news and is willing to become a parent, but the female is not. The female does not want to go through pregnancy and have a child. Does the female act unfairly toward the male if she decides to have an abortion? Aborting would fulfill the female's desire to no longer be pregnant and not become a parent but deprive the male of his desire to have a child and become a parent. It is not within the willing father's rights to compel the unwilling female to go through with pregnancy and childbirth and be the mother to that child. This would be a clear violation of her autonomy. If it is within the female's rights to have an abortion, then the male is not being unfairly treated if he is prevented from becoming a parent. It is not a violation of his right to choose parenthood if the female aborts because it is within her right to choose parenthood to abort.

If we accept that it is within the rights of an unwilling pregnant female to abort even if it prevents a willing male from becoming a parent, and both males and females have a symmetrical right to choose parenthood, then we should also accept that unwilling males have the right to avoid parenthood even if the female is willing. Compelling an unwilling father to be responsible for providing child support would be to disrespect his right to choose parenthood just as compelling an unwilling female to go through pregnancy and childbirth and become a mother would be to disrespect hers.

Parenthood can also come via adoption. In the case of a couple seeking to adopt, both parties have equal say in the matter. Supposing they meet the criteria for becoming prospective adoptive parents, they begin a process of finding a child or children to adopt, such as through an adoption agency. Prior to anything being finalized, the seeking parties

may change their minds and decide that they no longer wish to adopt because they no longer wish to become parents. In the case where only one party wishes to adopt and the other no longer so wishes, it is within the no longer interested party's right to choose parenthood to withdraw from the process, for the project of a couple adopting a child requires the willingness of both of the individuals. In the case of a single prospective adoptive parent, the decision the withdraw lies entirely with that person.

By looking at two common ways people become parents, it is evident that becoming a parent is a process that involves a series of choices and decisions. Throughout this process, there are points where people must decide whether or not they will continue. If they continue to the process's completion, they become parents, and if at some point they change their minds and end the process somehow, then they do not. The right to choose parenthood is the right to make the choices and decisions relevant to this process, including beginning, continuing, and termination.

Taking the right to choose parenthood seriously allows for an argument for the permissibility of abortion that is independent of a right to bodily autonomy. Following Thomson's reasoning about the contours of a right to life, a fetus's right to life does not entail a right to have anyone enter parenthood against their will or surrender the right to choose parenthood and become a parent to the child that fetus would become. Pregnant persons have a self-right claim to decide for themselves whether to begin or continue to take steps toward something as life changing as becoming a parent. Independently of the pregnant person's right to bodily autonomy, abortion is permissible because a fetus's right to life does not entail a right to encroach on anyone's choice of whether to undertake parenthood or have them surrender their self-rights, and so choosing to avoid parenthood

by having an abortion does not violate a fetus's right to life because it does not deprive a fetus of anything it has a right to in virtue of having a right to life.

At this point, we may ask how this is meant to address the analogy between abortion and infanticide. If a right to life does not entail a right to encroach on anyone's choice of whether to undertake parenthood and the right to choose parenthood includes the right to have an abortion to avoid undertaking parenthood, would a parent's right to choose parenthood not also include the right to commit the infanticide of their newborn if they decided they no longer wanted to parent it? If it is permissible to kill a fetus because one does not want to undertake parenthood, then why is it impermissible for a parent to commit the infanticide of their newborn if they want to stop being its parent? The answer lies in the moral nature of parenthood.

Birth creates a new moral context, not only because a person's body is no longer occupied, but also because new relationships emerge. Lindsey Porter characterizes this new moral context as one in which the newborn is in various relationships with several people, including its family members. For Porter, these relationships mean that choices concerning what to do with or to the newborn would not belong solely to the person who birthed it. The other people with whom the newborn has a relationship change the moral context such that choices concerning what to do with or to the newborn will also depend on their input. Regarding the choice to commit the infanticide of the newborn, the moral context surrounding such a choice will always be different from the moral context surrounding the choice to have an abortion. For this reason, fetuses and newborns will never be in the same moral context and one cannot generalize from the moral status of abortion to that of infanticide (Porter, 2013, p. 352).

While Porter takes there to be a difference in the moral contexts in which fetuses and newborns exist, more must be said about what specifically makes these contexts different if it is to be shown that the situation of abortion is disanalogous with the situation of a parent committing the infanticide of their newborn such that the former is permissible and the latter not. Porter specifies the importance of relationships as one differentiating factor and gives the example of relationships between family members but does not further specify how particular relationships affect moral context or how they might do so beyond including more parties in certain decision-making processes.

Specifically, it is the moral nature of parental relationships that most significantly differentiates pre-birth and post-birth moral contexts. Parenthood is a relationship between a parent and a born child and one that is entangled with moral responsibilities (Singh, 2020, p. 189). No one can be a parent if they do not have any born child, so if someone is a parent, they must have a born child. Some argue that the relationship between parents and born children is an extension of a relationship that emerges at conception such that pregnant people count as parents to their fetuses, which count as their children (Blackshaw & Rodger, 2021). But this is mistaken. Pregnant people and the fetuses they carry participate in a progenitor-offspring relationship as distinct from the parent-child relationship (Singh, 2020, 2021). This is because birth is when children come into the world, and parental responsibilities are toward born children.

To see why, consider the following argument against the view that pregnant people are parents to any fetus they carry and those fetuses are their children: parents have responsibilities to take care of their children's well-being such that harming them by seriously impairing them is wrong. If pregnant people are parents to any fetuses they carry

and those fetuses are their children, then they have parental responsibilities toward those fetuses. If they have parental responsibilities toward any fetuses they carry, then it would be wrong for pregnant persons to harm any fetuses they carry by seriously impairing them. Consider the responsibility to refrain from consuming alcohol during pregnancy. We might think that it is wrong to consume alcohol during pregnancy because doing so seriously impairs the fetus by giving it fetal alcohol syndrome. But such harm to the fetus is not what makes giving a fetus fetal alcohol syndrome wrong. Instead, it is wrong because it will cause detrimental harm to the future born child. But, if there is no harm to a future born child, then giving a fetus fetal alcohol syndrome is not wrong because it is the harm to a future born child that constitutes its wrongness. Imagine a scenario where a fetus is, for some reason, unviable and will die before it reaches term. This means that there is no future born child. Suppose the pregnant person consumes enough alcohol during the pregnancy to give that fetus fetal alcohol syndrome. In this case, the pregnant person has not done something wrong because they do not do anything that causes harm to a future born child, as there will never be any future born child to suffer harms. So, it would not be wrong for a pregnant person to consume enough alcohol during a pregnancy in which they carry an unviable fetus that will die before it reaches term to give that fetus fetal alcohol syndrome because, while doing so seriously impairs the fetus, it does not harm a future born child.

If a pregnant person is a parent to any fetus they carry, then, in cases of pregnancy where the fetus is unviable and will die before it reaches term, the pregnant person is the parent of that unviable fetus they carry. If pregnant people are parents to the unviable fetuses they carry, then they have parental responsibilities to take care of the fetus's well-being such that they are doing something wrong if they seriously impair them. Giving an

unviable fetus fetal alcohol syndrome seriously impairs a fetus. If a pregnant person has parental responsibilities to any unviable fetus they carry, then it is wrong for them to harm any unviable fetus they carry by giving it fetal alcohol syndrome. But, as explained, giving a fetus fetal alcohol syndrome is wrong because it causes harm to a future born child, not because it harms the fetus. Because in the case of an unviable fetus there is no future born child to suffer harms, the criterion for wrongness cannot be met and so it is not wrong for a pregnant person to give an unviable fetus they carry fetal alcohol syndrome. If it is not wrong, then pregnant people do not have parental responsibilities to any unviable fetuses they carry. If pregnant people do not have parental responsibilities to any unviable fetuses they carry, then they are not parents to any unviable fetus they carry. If the relationship between parents and born children is an extension of a relationship that emerges at conception, then the relationship pregnant people have with any unviable fetuses they carry is parenthood. But pregnant people are not parents to any unviable fetuses they carry. Therefore, the relationship pregnant people have with their fetuses is not parenthood, meaning it is not the case that the relationship between parents and born children is an extension of a relationship that emerges at conception.

What I have just argued depends on the claim that it is wrong to consume alcohol during pregnancy. If it is not wrong to consume alcohol during pregnancy, then my

argument does not work. Jessica Flanigan argues that it is permissible for pregnant women³ to expose their unborn children⁴ to risk and injury (Flanigan, 2020). Flanigan argues that if abortion is permissible, it means that pregnant women may permissibly prevent an unborn child from experiencing any future wellbeing. If this is the case, then she may also permissibly provide her child with relatively poorer prospects for wellbeing, including poorer prospects for wellbeing from prenatal injuries such as those caused by consuming alcohol during pregnancy.

Flanigan refers to Will Cartwright's rock climber thought experiment to explain that to cause prenatal injury is not to cause harm but rather is a failure to rescue. Imagine a rock climber falls and his partner catches the rope. Realizing that the climber is too heavy, the partner lets go. The partner did not harm the climber even though his actions caused

³ Flanigan uses the terminology of "pregnant women" whereas I have used more gender-neutral language. Would it be impermissible for someone who is pregnant but not a woman to expose their fetus to risk and harm? I doubt such an objection is a problem for Flanigan's argument, but only because we should recognize the experiences of pregnant people who are not women.

⁴ Later on, I discuss the notion of "unborn children". In short, I argue that there are no unborn children because fetuses are not children. Instead, fetuses develop into children where birth is the significant point at which children come into the world. "Unborn child" is a confused notion because being unborn means the process of gestation is not yet complete. Children are the final products of this process rather than the subjects that go through the process.

the climber to be disabled or dead (Cartwright, 1996). Flanigan draws an analogy between the rock climber's partner and pregnant women. Flanigan states,

Like the rock climber's partner, each pregnant woman is engaged in a slow rescue. Some women slip up or lose their grip. They prioritize themselves over the safety of the fetus. A woman who has an abortion drops the rope: she withdraws life-sustaining services in a way that results in the death of the fetus. A woman who uses alcohol or drugs while pregnant causes an injury. But women who have abortions or use drugs and alcohol do not violate the rights of their unborn children. Even if fetuses have bodily rights, as the rock climber does, refusing to rescue is permissible because a person's bodily rights do not entail positive rights to rescue services from another person (Flanigan, 2020, pp. 34-35).

In a footnote, Flanigan addresses two possible objections to this analogy. First, the analogy may be rejected on the grounds that the climber will die without the intervention of his partner but a fetus will be born without injury if their mother does not do anything. Flanigan responds that this characterization implies that gestating is analogous to doing nothing rather than holding the rope. But pregnancy consists in the active provision of bodily services, and so is analogous to holding the rope. Second, it may be objected that the climber exists before his partner catches the rope whereas a fetus does not exist before pregnancy. Flanigan responds that this disanalogy does not change the ethical dimensions of the case as long as in both cases there is no prior agreement to hold the rope, rescue the climber, or gestate even if the rescuer or pregnant women knowingly grabbed the rope or remained pregnant (Flanigan, 2020, note 11).

However, there are other problems with the rock climber analogy that create problems for Flanigan's argument. Flanigan attempts to present cases of prenatal injury as instances of a failure to rescue rather than cases of causing harm. In the rock climber case, catching and holding the rope is an instance of rescue because the climber is being saved from falling. Suppose that it was the partner that caused the climber to fall. In such a case, if there is a route to easy rescue, such as catching and holding the rope, the fact that the partner was responsible for the climber needing to be rescued is relevant to their decision whether to continue to hold onto the rope or not. If they are the reason the climber is falling, then they would bear responsibility to rescue. If the climber is too heavy and the partner lets go of the rope, the partner is not merely responsible for a failure to rescue, but culpable for the climber's death. This will not apply if the climber's fall was caused by something independent from the partner, such as if it was caused by some accident related to how the climber was climbing. But, while the climber's bodily rights do not entail positive rights to have their partner rescue, it is a violation of their rights if their partner is the one making them fall.

In the case of prenatal injury, the pregnant woman is taking action that directly causes harm, whereas in the rock climber case, the partner is not the cause of harm. The rock climber is harmed by falling, which has nothing to do with the actions of the partner, whereas the fetus and future child are harmed by the positive actions of the pregnant woman who consumes alcohol. This strikes me as a disanalogy between the rock climber case and cases of prenatal injury. The climbing partner is not culpable because they are not the source of why the climber is in danger or injured. The partner did not push or sabotage the climber to cause them to fall, but only failed to rescue once they were already falling. The

pregnant woman who consumes alcohol during pregnancy on the other hand is responsible for why the fetus or future child is exposed to risk and injury. The pregnant woman creates the conditions of risk and injury. Framing prenatal injury as a failure to rescue would be more plausible in cases where the pregnant woman is not the cause of the conditions for harm, such as natural birth defects.

While the fetus' bodily rights do not entail a right to rescue services, the pregnant woman's rights do not include the right to harm the future child. If my body belongs to me, and no one else's bodily rights entail a right to my rescue services, then it is permissible for me to prioritize myself in cases where others are in danger over attempting a burdensome rescue. However, it is not within my rights to put others in such danger that they need rescuing. That my fist belongs to me does not mean I can do just anything with it. I cannot use it to harm or present risk of harm (such as by threatening to punch them) to others. To do so would be a violation of their rights. When a pregnant person consumes alcohol during pregnancy, they are using their body in such a way that directly exposes a future child to risk and injury. So, while a pregnant woman who consumes alcohol during pregnancy maintains bodily rights, these rights do not include putting others at risk or injuring them any more than my bodily rights include the right to hit and injure others. For this reason, it is not a mistake to think of cases of consuming alcohol during pregnancy as instances of causing harm to a future child. Contrary to Flanigan, it is not permissible for pregnant women to consume alcohol during pregnancy because doing so exposes a future child to risk and harm.

A further distinction can be made concerning the wrongness of consuming alcohol during pregnancy. A distinction can be made between harm and risk. We might ask whether

the wrongness of consuming alcohol during pregnancy is constituted by actual harms to a future child, or whether it is constituted by its risky nature. At the time that alcohol is consumed during pregnancy, it may be unknown whether there will be actual harm done to some child in the future. There is something like a non-identity problem at play. There is not a child to be harmed at the time the alcohol is consumed. If the wrongness of consuming alcohol during pregnancy is constituted by harms to a child, then how can it be wrong when there is no child to be harmed? If its wrongness is instead constituted by the risk it poses, where risk is understood as a probability of the occurrence of harm, then it becomes less clear why actual harm to an actual future child is necessary. While it is not possible to know with certainty whether consuming alcohol during pregnancy will lead to harms to a future child (it is possible that there may not be a future child), we know what the effects consuming alcohol during pregnancy has for future children. Thus, at the time of consumption we can reasonably expect in the absence of defeaters that a future child will suffer harms. A defeater in such a case may be the knowledge that there in fact will not be any future child to suffer harms, or that for some reason the alcohol consumption will not lead to harm. All the evidence we have substantiates a reasonable expectation of harm. It is because of this reasonable expectation of harm that we can assess instances of consuming alcohol during pregnancy to be wrong.

Still, some pregnant people think of themselves as parents and the fetuses they carry as their children and refer to fetuses as “unborn children.” From their perspective, they became parents once they conceive and take fetuses to be continuous in identity with born children, and so take their relationship with any fetuses they carry to be parenthood. While people may have tremendous emotional attachment to their relationship with the fetuses

they carry, it does not follow that this relationship is parenthood. This is simply because no one can be a parent if they do not have children, and no one can be the parent to a child that does not exist. In a case of a pregnant person who does not have any born children⁵, they are only a potential or prospective parent rather than an actual one. This is because fetuses are only potential children, and not actual ones, because they still need to go through the gestation process and be born.

For example, a plant sprout is not a seedling, though it may be in the process of becoming a seedling as it goes through the process of germination. Tomato seeds are not “unplanted tomato plants”; they are seeds with the potential to grow into seedlings and eventually mature tomato plants. The seeds, sprouts, and seedlings are distinct stages of development analogous with unfertilized eggs, embryos and fetuses, and born children. Just as the seeds must be planted, and sprouts must complete a process of growth and development for seedlings to emerge, fetuses must also complete a process of growth and

⁵ My terminology of “born children” would seem to suggest that there is such a thing as “unborn children”. As I go on to argue, I think the notion of “unborn children” is confused. As will be apparent from what I argue, the notion of a “born child” is redundant and an “unborn child” an oxymoron. Still, I say “born children” only to emphasize the importance of being born as I make my argument, and to distinguish the entity that I am speaking about. An opponent of my view will hold that both fetuses and infants are children, and because I take birth to make a difference, I use the term “born children” to avoid confusion, though once my argument is grasped, this will look to be a redundant terminology.

development for children to be born. Fetuses thus have the potential to become children but are not children, and so are not “unborn children.”

If we think that pregnant people are parents to any fetuses they carry, then we should think that someone who only owns tomato sprouts owns tomato seedlings in virtue of only owning the sprouts. But owning tomato sprouts does not imply owning tomato seedlings, so pregnant people are not parents to any fetuses they carry.

Thus, birth is the morally significant transition point because parenthood is a relationship parents have with their born children, not a relationship pregnant people have with the unborn fetuses they carry. It is born children, not fetuses, at which moral concern is ultimately directed toward when it comes to taking care of a pregnancy. Any responsibilities there may be regarding the taking care of a pregnancy are ultimately for the sake of the future born child’s well-being, not the fetus’s. Because there is not yet a born child, and the relationship between the pregnant person and the fetus they carry is not a relationship between a parent and a child, any responsibilities a pregnant person may have regarding taking care of their pregnancy will not be parental responsibilities. The time of the child’s birth is the earliest anyone can be a parent and thus the earliest they can have parental responsibilities toward them. As Andrew McGee states:

Birth marks the moment our offspring come into the world. The special moment of childbirth and the joy of holding your son or daughter for the very first time are monumental events in human life. It is at this point that so much of our responsibility towards them — our very life with them — truly begins. (McGee, 2013, p. 348)

I quote McGee because this statement captures the general gist of my views on birth as a morally significant point. However, when McGee states that birth is the point at which “so much of our responsibility towards them – our very life with them – truly begins”, he leaves open the possibility of pre-birth parental responsibility. Why is birth not instead where all, rather than only “so much”, of our responsibilities towards our children begin? This could mean that there are some parental responsibilities pre-birth. However, “So much” does not rule out “all”. As I argued earlier from the wrongness of consuming alcohol during pregnancy, there are not pre-birth parental responsibilities. Parental responsibilities are the responsibilities that pertain to a parent-child relationship, and the relationship a pregnant person has with their fetus is not a parent-child relationship, so the pregnant person does not have parental responsibilities toward the fetus. I agree with McGee on the general point that birth is a special moment and hold the more specific view that it is where all parental responsibilities begin.

While some cases of parenthood may begin much after the child is born, such as in cases of adoption, the time of birth is the earliest point from which parenthood and parental responsibilities can begin, so it is not an extension of a relationship that emerges at some prior point, such as conception.

Similarly for cases of planned adoption, prospective adoptive parents are not parents prior to the birth of the child they will adopt. Prior to the child’s birth, they are only prospective parents rather than actual ones. Even when all of the relevant legal work is done beforehand, the child still needs to be born for the actual relationship between it and its adoptive parents to become a reality.

If any responsibilities a pregnant person may have to take care of their pregnancy are not parental responsibilities — because the relationship between the pregnant person and any fetus they carry is not parenthood — then what sort of responsibilities are they, if they have any responsibilities at all? If the pregnant person has some end that is served by taking care of the pregnancy, then it is rational for them to take care of the pregnancy. If a person's aim in going through a pregnancy is to become a parent, then they would have hypothetical imperatives to take care of their pregnancy, as doing so best serves their end. But becoming a parent is not the only end a pregnant person can have that is served by taking care of their pregnancy. Take surrogates for example. A surrogate is responsible for taking care of their pregnancy because doing so is required to achieve the goal of allowing the party they agreed to be a surrogate for to become parents. But if there is no end that requires the pregnancy be taken care of then a pregnant person would not have any responsibilities to take care of their pregnancy, including any responsibility not to terminate it.

Because being a parent entails having specific moral responsibilities concerning the raising of one's children, parenthood is something that places responsibilities upon those who undertake it. Undertaking parenthood is analogous to promise-making just in the sense that both create obligations where previously there were none. Genuine promises create obligations for those who make them. There is no obligation to make any given promise. But once a promise is made, there is an obligation to keep it. Undertaking parenthood is similar. There is no obligation to become a parent, but like a promise-maker, one is obligated to meet certain responsibilities bestowed upon them once they undertake parenthood. The person who chooses abortion does not undertake parenthood and so does

not obligate themselves, much like the person who does not obligate themselves to keep a promise by not making a promise in the first place. Once someone is a parent, they are obligated to meet the responsibilities of parenthood, including handling the well-being of their child, and raising them in a loving, caring, and nurturing way, meaning depriving them of the resources necessary for their survival would be impermissible. While a parent maintains a right to their resources, they also have a responsibility to ensure the well-being of their newborn, and so the permissibility of infanticide via deprivation is ruled out.

Reasoning similarly to Thomson, it would be permissible for a pregnant person to have an abortion because a fetus's right to life does not entail a right to have anyone undertake parenthood and become parents to the child that fetus will become or surrender their self-rights, including their right to choose parenthood, but it would be impermissible for a parent to commit the infanticide of their newborn because, once they have undertaken parenthood, they are obligated by parental responsibilities, including the responsibility to care for the well-being of the newborn, which precludes infanticide. Thus, an argument from the right to choose parenthood is able to maintain that abortion is permissible and infanticide is not. This demonstrates the ethical relevance and significance of the life-changing decision to undertake parenthood and the right to choose parenthood to the ethics of abortion. By recognizing the prospect of undertaking parenthood and the right to choose parenthood as considerations relevant to the ethics of abortion, the range of considerations taken to be relevant to the ethics of abortion expands beyond the narrow focus on bodily matters and the right to bodily autonomy, giving a broader and more complete picture of what matters to thinking about the ethics of abortion.

CHAPTER 3: THE BIRTH STRATEGY, ADOPTION, AND ALTERNATIVES TO ABORTION

This chapter considers objections to the argument in chapter 2. Because the account of the disanalogy between abortion and infanticide outlined in chapter 2 depends upon the moral significance of parenthood, and parenthood is a relationship between parents and born children for which the time of birth is the earliest parenthood can begin, this account takes birth to be morally significant. As such, it belongs to a family of views that take birth to make a morally significant difference for the moral statuses of both, fetuses and newborns, and abortion and infanticide. Examples of arguments from this perspective can be found in Bermúdez (1996), Levy (2013), Loi (2013), Manninen (2013), McGee (2013), Oakley (2012), Rini (2013), Singh (2020), and Warren (1989).

Christopher A. Bobier and Adam Omelianchuk (2021) call this group of views the “Birth Strategy” and argue that the Birth Strategy is saddled with a dilemma. If birth creates a morally meaningful change that explains why infanticide is impermissible despite newborns resembling late-term fetuses, then proponents of the Birth Strategy must either accept that non-therapeutic late-term abortions are impermissible, or not. Judging that late-term non-therapeutic abortions are impermissible undermines the Birth Strategy because birth is supposed to differentiate the moral status of infanticide and the moral status of abortion. This could be avoided if non-therapeutic late-term abortions were permissible. But Bobier and Omelianchuk take the judgement that non-therapeutic late-term abortions are permissible to be unacceptable.

Bobier and Omelianchuk defend the claim that non-therapeutic late-term abortions are impermissible with an appeal to the principle “that it is morally impermissible to

deprive a non-threatening human being of a foundational human good-like life, a good on which all other human goods are based, without sufficient reason” (Bobier & Omelianchuk, 2021, p. 4). Based on this principle, they claim the judgement that non-therapeutic late-term abortions are impermissible is stronger than any principles that could be used as premises in arguments for the opposite conclusion, and that if proponents of the Birth Strategy are to defend themselves, they need to better explain why non-therapeutic late-term abortions are permissible.

Walter Veit contends that Bobier and Omelianchuk’s dilemma “is entirely grounded in intuitions about the inherent sanctity of life at the final stages of pregnancy” (Veit, 2022, p. 194), and because it relies too heavily on intuition without further reasons, it is inadequately justified. Such appeals to intuition and common-sense morality ought not to be uncritically accepted because, as Levy puts it, “Common sense is often confused, at odds with itself and sometimes driven by psychological processes that are not truth tracking” (Levy, 2013, p. 326). This is not to say that intuitions are always irrelevant. But, without further reasons, mere intuitions may not supply a stable foundation to support the proposed dilemma.

In response to Veit, Bobier and Omelianchuk maintain that it is not objectionable for them to base their dilemma on intuition because they ground what they take to be their commonly shared intuition on their normative principle (Bobier & Omelianchuk, 2022, p. 490). They maintain that those with differing intuitions will still have to explain why their normative principle should be denied.

This response is inadequate because Bobier and Omelianchuk present a double standard regarding what can be accepted or rejected on the basis of intuitions. Why would

a differing intuition be insufficient for denying their principle? One could simply reject their principle on the basis of a differing intuition. This would mirror their defence of their principle. If such a defence would require further explanation, as Bobier and Omelianchuk claim it would, then it must be that mere intuition is insufficient reason to deny their principle. But why then would mere intuition be sufficient reason to accept their principle? If those with differing intuitions would still need to explain why their normative principle should be denied, then Bobier and Omelianchuk will also need to explain why it should be accepted. But, as Veit explains, they do not do this, and so their dilemma is defused because there is no further reason beyond intuition to accept the normative principle on which their dilemma is based.

Nevertheless, there is further explanation for why their normative principle should be rejected, meaning that the Birth Strategy is not troubled by Bobier and Omelianchuk's dilemma anyway. This is for two reasons. First, it is not clear that non-therapeutic late-term abortions violate their principle; it is not clear that fetuses are non-threatening human beings with foundational human good-like lives. This is because fetuses in pregnancies for which abortions are sought are not non-threatening. Instances of pregnancies for which abortions are sought are instances of unwanted pregnancies. A pregnancy may be wanted in one way and unwanted in another. For example, a person might have a desire to be pregnant because they are trying to have a child, but complications in the particular pregnancy make it unviable. If the person does not want to go through with an unviable pregnancy, then that unviable pregnancy is unwanted, all while they maintain the general desire to ultimately have a child. But if the termination of a pregnancy is voluntarily sought, then that particular pregnancy is unwanted.

Unwanted pregnancy constitutes an unwelcome and risky burden to the pregnant person because that person will suffer great costs against their will if it is not terminated. As discussed, these costs include, but are not limited to, physical pain, risk of mortality, irrevocable changes to one's body, economic costs from pregnancy and childbirth, and the burdens of parenthood. People with unwanted pregnancies find themselves in burdensome circumstances and it is the presence of the fetus that creates these burdensome circumstances. Thus, fetuses in pregnancies for which abortions are sought are not non-threatening. While the sense of "non-threatening" Bobier and Omelianchuk present may pertain to medical conditions, there are other morally significant risks present with unwanted pregnancies, such as the social, personal, economic, and physical costs. Even pregnancies that are without medical complications, which we might think are non-threatening, may lead to medical risk because the event of childbirth is medically risky. When all the costs of pregnancy and childbirth are acknowledged, we can see that unwanted pregnancies are risky. So, while they may medically non-threatening, they may not be morally non-threatening, where the "threat" is less like a mugger threatening you, and more like facing morally significant burdens and suffering morally significant costs. The morally significant costs of pregnancy mean that fetuses in unwanted pregnancies are not morally non-threatening in the sense that their presence creates significant risk of moral harm to the pregnant person. Therefore, abortion, including non-therapeutic late-term abortions, if it entails deprivation of a foundational human good-like life, entails depriving a threatening rather than non-threatening human being of a foundational human good-like life, and so does not violate Bobier and Omelianchuk's principle.

Second, even if fetuses are non-threatening, Thomson's argument already explains the permissibility of late-term abortions. As the earlier examination of Thomson's core argument and reasoning shows, late-term abortions, including non-therapeutic ones, are morally permissible for the same reasons that all other abortions are permissible. Regardless of whether a fetus is a non-threatening human being with a foundational human good-like life, has a right to life, is in the later stages of development, or the circumstances and conditions of the pregnancy, a fetus has no entitlement to use and occupy another's body or force anyone into undertaking parenthood because people retain not only a right to bodily autonomy but rights concerning claims that constitute their general autonomy over their selves, especially the right to choose parenthood. Thus, all abortions, whether therapeutic or not, regardless of whether a fetus is a non-threatening human being with a right to life, the stage of pregnancy, or the circumstances and condition of the pregnancy, are permissible because neither depriving any fetus of use of another's body nor avoiding becoming a parent to the child a fetus would become deprives it of anything it has a right to in virtue of having a right to life.

Consider further an analogy with rape and sexual assault. A rapist uses a victim's body without consent. The rapist in this case is a threat to the victim, and what makes this the case is precisely that they use another's body against their will. Analogously, a fetus in an unwanted pregnancy is a threat to the pregnant person because it continues to use and occupy the pregnant person's body against their will. Just as a person's will determines the difference between rape and not, the pregnant person's will determines whether the fetus is intruding on their body. To use another analogy, the difference between a guest and a trespasser is determined by the will of the host. If a host does not want or no longer wants

someone in their home or on their property, that person becomes a trespasser. Trespassers are worse than threatening because they in fact intrude on someone or their property. Their trespassing is the realization of a threat. Similarly, fetuses in unwanted pregnancies intrude on someone's body. So, fetuses in unwanted pregnancies, like trespassers, intrude on someone's body, and so are worse than threatening as they are the realization of the threat of having one's body used against their will.

Voluntary abortions involve unwanted pregnancy, for it is because the particular pregnancy is unwanted that its termination is sought. It could be objected that not all voluntary abortions are terminations of unwanted pregnancies. People may find themselves in circumstances where they abort reluctantly. It is possible that a person may not wish to have an abortion because they wish to continue a pregnancy, give birth, and have a child, but must abort for some reason, such as the discovery of some life-threatening complication in pregnancy or lack of viability. However, this would still count as an unwanted pregnancy because, while the person may want in general to through with a pregnancy, they would not want to go through with this particular pregnancy given the risks and dangers it poses. While they may regret having to abort, such regret would concern their general interest in going through with pregnancy rather than a specific interest in going through with this particular pregnancy that poses risk to them.

If a fetus is understood as a human being that can potentially have a foundational human good-like life, and fetuses in unwanted pregnancies threaten a person by continuing to use and occupy a pregnant person's body against their will, fetuses in unwanted pregnancies are not non-threatening. In any case where a non-therapeutic late-term abortion is sought, if that pregnancy is unwanted, then the fetus in that pregnancy is not

non-threatening. Thus, any case in which a non-therapeutic late-term abortion would be sought would also be a case of unwanted pregnancy. Therefore, non-therapeutic late-term abortions are not morally impermissible because they do not deprive a non-threatening human being of a foundational human good-like life.

The justification for the moral impermissibility of non-therapeutic late-term abortions is lacking because the moral principle posited does not apply in cases of abortion of unwanted pregnancies, including non-therapeutic late-term abortions of unwanted pregnancies. Still, while the impermissibility of non-therapeutic late-term abortions lacks justification, there may yet be a need for positive argument in support of this claim. If people have a right to bodily autonomy, then non-therapeutic late-term abortions are permissible. This is because, as mentioned, people's will over whether and how their bodies are used is morally determinate. This is because people have a right to bodily autonomy, which is the right to govern whether and how their bodies are used and what sorts of procedures they go through. This includes authority not only over whether their body continues to be occupied, such as by a fetus, but also whether they go through induced birth or caesarean section. This is because both induced birth and caesarean section make use of one's body in significant ways (Hine, 2021). If people have a right to bodily autonomy, people have the authority to choose whether to undergo childbirth. Even in the later stages of pregnancy, pregnant people have a right to bodily autonomy that includes authority over whether to undergo childbirth. If a non-therapeutic late-term abortion would avoid having to undergo childbirth, it is within the pregnant person's rights to have, and so is permissible.

This argument is based on Judith Jarvis Thomson's argument for the permissibility of abortion. A slight difference between Thomson's argument and the one I present is that I focus on what is included in a right to bodily autonomy while Thomson focuses on what is not included in a right to life. Thomson takes a right to life to be a negative right to not be unjustly killed rather than a positive right to be preserved and provided for. Thomson argued that, even if we assume fetuses are persons and have a right to life, abortion is still permissible because the combination of a fetus's right to life and need to occupy another's body does not entail a right to do so. Depriving a fetus continued use of another's body does not deprive it of anything it is entitled to by way of having a right to life (Thomson, 1971). Importantly, this applies to cases of late-term abortion as well. Thomson herself suggested that late-term abortion would not be permissible, but this is in tension with the core reasoning of her argument. Thomson states, "...while I do argue that abortion is not impermissible, I do not argue that it is always permissible" (Thomson, 1971, p. 65). Thomson goes on to say, "...a sick and desperately frightened fourteen-year-old schoolgirl, pregnant due to rape, may of course choose abortion", and, "It would be indecent in the woman to request an abortion, and indecent in a doctor to perform it, if she is in her seventh month [of pregnancy], and wants the abortion just to avoid the nuisance of postponing a trip abroad" (Thomson, 1971, pp. 65-66). However, if what makes abortion permissible is that a fetus's supposed right to life does not entail a right to occupy another's body or have them surrender their right to bodily autonomy, then the stage of pregnancy is irrelevant. Following Thomson's reasoning, and in contrast to her comments about late-term abortion, there is nothing special about a late-term fetus that would make late-term abortions morally different from other abortions. Because the reason for the permissibility of abortion applies

in all cases of abortion, including late-term abortion, late-term abortions are not impermissible.

Contra to Bobier and Omelianchuk's claim, it is not the case that the judgement that non-therapeutic late-term abortions are impermissible is stronger than any principle used in an argument for the opposite conclusion. The principle that people have a right to bodily autonomy is stronger because it explains the impermissibility of rape and sexual assault. If we accept that rape and sexual assault are wrong, then we must accept that people have a right to bodily autonomy that is the right to govern whether and how their bodies are used. A fetus in the later stages of pregnancy uses and occupies a person's body. If that person has a right to bodily autonomy and decides they do not wish for their body to be occupied or go through childbirth, then it is permissible for them to have an abortion, including a non-therapeutic late-term abortion. Denying this entails denying that people have a right to refuse having their bodies used against their will, including the right to refuse being used sexually. But it is obviously true that rape and sexual assault are impermissible. So, it is not the case that non-therapeutic late-term abortions are impermissible. Therefore, Bobier and Omelianchuk's dilemma for the Birth Strategy is undercut.

Because fetuses in unwanted pregnancies are not non-threatening and the permissibility of non-therapeutic late-term abortions is already explained, the alleged dilemma for the Birth Strategy is readily resolved. As I argue, the Birth Strategy successfully shows that revising Thomson's argument to take seriously the right to choose parenthood addresses problematic analogies between the situation of a pregnant person

having an abortion and a parent committing the infanticide of their newborn such that the abortion is permissible and the infanticide is not.

The argument from the right to choose parenthood that I present faces another objection concerning alternatives to abortion. I will consider two related arguments, both of which present an alternative to abortion which is meant to achieve the same or similar ends of abortion but without the death of the fetus. The first is adoption as an alternative to abortion and the second is the prospect of artificial womb technology and its use as an alternative to abortion. I will present each case and argue that the availability of alternatives to abortion that do not entail the death of the fetus does not make abortion morally impermissible.

Let us first consider the case of adoption as an alternative to abortion. One may contend that the burdens of parenthood could just as easily be avoided by going through with pregnancy and childbirth but then placing the newborn up for adoption rather than having an abortion. By placing the newborn up for adoption, one gives up being a parent and therefore would not have to endure the burdens of parenthood. Because the burdens of parenthood can be avoided without having an abortion, and the purpose of exercising the right to choose parenthood to have an abortion is to avoid these burdens, an appeal to the right to choose parenthood seems not to justify having an abortion because placing the newborn up for adoption accomplishes the same result.

Cases of planned adoption in which a pregnant person has arranged for some other party to adopt the child to whom they will eventually give birth are especially relevant here. In such cases, those adopting the child will become its parents once it is born rather than the person who births it due to the stipulations of the planned adoption. It may thus be

argued that the availability of planned adoption, or adoption in general, as a method for a pregnant person to avoid parenthood is a problem for my argument.

However, this objection does not defeat my argument. Adoption is envisioned as an alternative to abortion, but this notion needs to be examined. If we simply take the end to be the avoiding of parenthood, then it would seem that adoption is a genuine alternative to abortion, but this neglects to account for what adoption requires over and above abortion. Adoption is not a genuine alternative to abortion because the option to adopt would require the pregnant person to go through with pregnancy and childbirth (Porter, 2012). The physicality of pregnancy and childbirth must be endured if one chooses the option of adoption over abortion. In so far as one not only wishes to avoid parenthood but also pregnancy and childbirth, adoption is not a genuine alternative to abortion.

But, because my argument focuses on parenthood beyond the bodily condition of pregnancy, this response may not do the work needed to defend my argument. Even though adoption as a method of avoiding the burdens of parenthood would require conceding to going through pregnancy and childbirth, I cannot appeal to this consideration without bringing things back to bodily matters. So, I will need to provide a different response.

The success of the adoption objection against my argument depends upon the availability of adoption implying the impermissibility of choosing abortion over adoption. But there is no such implication. The availability of adoption as a way for a pregnant person to avoid parenthood does not make abortion impermissible. While it is true that the burdens of parenthood could be avoided by giving one's newborn up for adoption, it is not morally obligatory to choose adoption over abortion. This is because the choice to have an abortion — even when adoption is an available option — does not deprive a fetus of anything it has

a right to in virtue of having a right to life and so does not violate its right to life. Because the right to life is a negative right, it does not include the right to be preserved, meaning it does not include the right to have someone continue with an unwanted pregnancy so that the future child can be put up for adoption. The choice to abort in order to avoid the burdens of parenthood — even when one could accomplish the same by going through with the pregnancy and birth and then putting the newborn up for adoption — is thus permissible as it does not violate a fetus’s right to life.

Hine (2024) provides a similar argument concerning alternatives to abortion but considers the case of partial ectogestation rather than adoption. Ectogestation is a process by which a “gestateling” (Romanis, 2018, p. 751) develops in an artificial womb. For Hine, the right to abortion is a particular instance of general rights concerning removal procedures and is the right to choose the procedure by which a fetus is removed and the timing of its removal. Transferring a fetus to an artificial womb would avoid the death of the fetus, but choosing abortion over transfer would not be unjust, for the fetus lacks the requisite rights to make the death of the fetus unjust. As already discussed, the right to life is not sufficient in this case because it is not the right to be preserved. So, a pregnant person is not obligated to transfer the fetus to an artificial womb nor is the fetus entitled to being transferred. Thus, the availability of alternative methods of avoiding the burdens of parenthood, such as adoption or transfer to an artificial womb, does not make choosing abortion impermissible.

Instead of implying that abortion is impermissible, the availability of an option to have one’s newborn adopted, such as through planned adoption, is simply another way a pregnant person may choose to avoid parenthood. The existence of this option does not

mean that abortion is not also a permissible option. The right to choose parenthood includes the right to choose whether to avoid parenthood by planning for one's newborn to be adopted once born or by having an abortion, as both are methods for that same end.

But not only is abortion a permissible option, it may be the better one. This is because there are other burdens associated with the adoption route. The purpose of avoiding parenthood is to avoid significant burdens, but if one faces significant burdens anyway, then the purpose is defeated. For instance, Gretchen Sisson et al. assess both the frequency with which women seeking abortions consider adoption and decision satisfaction among adoption participants. They find that most women do not seriously consider adoption as an option when it comes to their reproductive choices: 91% of women who sought abortions but ended up giving birth chose to undertake parenthood rather than give their newborns up for adoption (Sisson et al., 2017, p. 141). The fact that the vast majority of women who seek abortions but cannot secure them choose parenthood over adoption shows that forcing someone into parenthood from a pregnancy for which abortion is sought by denying them access to abortion will most likely result in them undertaking parenthood. This is precisely what they sought to avoid. Adoption is therefore not a workable solution to avoiding the burdens of parenthood because, when it comes time to commit to the decision, it is highly unlikely that birth mothers will choose adoption, even if their pregnancies were unwanted and they sought abortions and did not previously want to become parents.

Importantly, Sisson et al. find that adoption is often the last option pregnant women seeking to avoid parenthood consider. It is almost always considered only when access to abortion is restricted. This suggests that the choice to place one's newborn up for adoption

is seldom a free and autonomous choice, as it is often made only when other options are restricted.

One may press that just because adoption is seldom chosen does not mean that abortion is a permissible option. It could be contended that those who sought abortions but could not get them and gave birth and chose adoption instead made the right decision, unlike those who had abortions. But this neglects to consider explanations as to why adoption is seldom chosen. In Sisson et al.'s study, those who were denied abortions and undertook parenthood after giving birth reported that they chose parenthood over adoption because adoption became unimaginable to them after feeling a bond with their newborns upon giving birth (Sisson et al., 2017, p. 140). The emergence of this post-birth bond suggests that childbirth is a transformative experience and underscores a significant harm associated with adoption. It is traumatic for someone to give up their child with whom they have a bond that is so strong that they find severing it unimaginable, even if they did not want to have a child in the first place. In such cases, choosing adoption poses serious harms and many who choose adoption express grief and unhappiness about their decision (Christian et al., 1997; Fravel et al., 2000; Grotevant & McRoy, 1997; Henney et al., 2007; Sisson, 2015). This harm would explain why undertaking parenthood is almost always chosen over adoption, even when avoiding parenthood was originally sought. This means that adoption is not a good option for those who wish to avoid significant burdens because either they will choose to undertake parenthood and suffer from the burdens of parenthood they sought to avoid, or they will have to suffer the harms of grief and unhappiness of severing a bond that emerges from the transformative experience of birth, in which case they suffer anyway. Abortion does not have these problems. Unlike adoption, having an

abortion does not require going through the same sort of transformative experience that puts one in a position to suffer these harms. Because of this, aborting a pregnancy is not only permissible even when adoption is an available option, but may be a better way of avoiding significant burdens in some cases because it avoids both the burdens of becoming and being a parent, and the harms of having to sever a bond whose breaking feels unimaginable and leads to grief and unhappiness.

Let us now consider the case of artificial womb technology. Michal Pruski and Richard C. Playford argue that Thomson-style defenses of abortion can no longer apply once partial ectogenesis is possible (Pruski & Playford, 2022). Thomson argues that even if a fetus is a person, or otherwise has a right to life, abortion is still permissible because a right to life does not include a right to use or occupy another's body against their will. Assuming a fetus has a right to life, abortion is not a violation of that right to life because depriving a fetus of the continued use of the pregnant person's body does not deprive that fetus of anything it has a right to in virtue of having a right to life. Pruski and Playford also argue that ectogenesis would be an obligatory alternative to abortion because it preserves the life of the fetus (Pruski & Playford, 2022, p. 40). Ectogenesis is the process of developing embryos in artificial conditions outside of a uterus. The subjects of ectogenesis are what Elizabeth Chloe Romanis calls "gestatelings", a term used to distinguish fetuses that gestate inside someone's uterus from developing human beings in the process of ex-utero gestation (Romanis, 2018, p. 751). I argue that, even if a Thomson-style defense of abortion no longer applies, it cannot be concluded that ectogenesis would be an obligatory alternative to abortion because it cannot be assumed that fetuses, and by extension gestatelings, have a right to life. After arguing this, I consider the ethical problem of what

to do about children born from artificial wombs who were put there by people who sought to terminate their pregnancies to avoid parenthood. I consider Pruski and Playford's proposition that such children could fall under the care of adoption and foster or residential care institutions and examine data that suggest this might be unethical in its own right. I conclude that, for the reasons discussed, ectogenesis technology will not be an obligatory alternative to abortion, meaning that abortion would not be impermissible even if ectogenesis were available.

Ectogenesis has been thought to be a resolution to the abortion debate. For example, Christopher Kaczor suggests the development of sufficiently advanced artificial womb technology could resolve the abortion debate because such technology could result in outcomes attractive to proponents of both the pro-choice and anti-abortion positions (Kaczor, 2010, p. 215-230). Ectogenesis could provide, as William Simkulet argues, an opportunity for moral compromise (Simkulet, 2020). This is because turning fetuses into gestatelings by moving them to artificial wombs would terminate pregnancies without killing the fetus. For this reason, it has been argued that if safe and inexpensive access to ectogenesis were available, then abortion would be impermissible (Blackshaw & Rodger, 2019).

Because gestatelings would gestate in artificial wombs rather than inside a person, one could not appeal to a right to bodily autonomy to justify the termination of a gestation process that resulted in the death of a gestateling because the gestateling would never use or occupy another's body. Because the right to bodily autonomy plays a significant role in Thomson's defense of abortion, its irrelevance would seem to mean that Thomson-style defenses no longer apply. This, however, does not lead to the conclusion that ectogenesis

should be an obligatory alternative to abortion. There are two reasons for that: First, it is not clear that Thomson-style defenses are not applicable, considering Thomson's conception of the right to life as a negative rather than a positive right. Second, even if Thomson-style defenses do not apply, it still does not follow that abortion would be impermissible when ectogenesis is available because this conclusion depends upon fetuses, and by extension gestatelings, having a right to life. The issue is that Thomson assumes for the sake of argument that a fetus has a right to life rather than arguing for it. In cases where Thomson-style defenses would no longer apply, such as with ectogenesis, there is no reason to continue to hold onto the assumption that fetuses, and by extension gestatelings, have a right to life. Either way, it cannot be concluded that ectogenesis would be an obligatory alternative to abortion.

If fetuses do have a right to life, it does not follow that ectogenesis would be an obligatory alternative to abortion despite not killing the fetus because it needs to be shown that this right to life includes a right to be placed into an artificial womb. It is not clear that it does. This is because, for Thomson, the right to life is the negative right not to be unjustly killed rather than the positive right to be provided with that which would sustain life. This is why on Thomson's view depriving a fetus of what it needs to survive, namely the pregnant person's body, is not a violation of its right to life. Abortion, while entailing the death of the fetus, does not violate its right to life because it does not deprive it of anything it has a right to in virtue of having a right to life.

Moreover, if Thomson-style defenses no longer apply once ectogenesis becomes available, it still does not follow that ectogenesis would be an obligatory alternative to abortion. This is because the impermissibility of abortion where ectogenesis is available

depends upon the assumption that the fetus has a right to life. Thomson's defense of abortion began with such an assumption. The claim that fetuses have a right to life cannot be assumed and must be argued for. If it is the case that fetuses do not have a right to life, then it would not be morally impermissible to choose abortion even if ectogenesis were available. If fetuses do not have a right to life, then neither do gestatelings. Because it still needs to be shown that fetuses and gestatelings have a right to life, ectogenesis technology will only reorient rather than resolve the abortion debate (Rodger, 2021).

So either Thomson-style defenses might still apply when ectogenesis becomes available because a right to life, in virtue of being a negative right, may not include a right to be placed into an artificial womb, or Thomson-style defenses no longer apply once ectogenesis becomes available, in which case the assumptions of Thomson-style defenses can be abandoned and it would first need to be shown that fetuses really do have a right to life. In both cases, it cannot be concluded that ectogenesis would be an obligatory alternative to abortion.

A further issue I wish to discuss is the question of what to do with children born from artificial wombs. If ectogenesis is meant to be an alternative to abortion, then it will need to be able to handle the cases of people using artificial wombs to avoid having to become parents. Many people seek abortions for this reason. So, use of artificial wombs as an alternative for these people will need to entail that they do not become parents to the children that the gestatelings may become.

What then is to happen to the children born from artificial wombs? Pruski and Playford suggest that they would fall under the care of the state, specifically by way of adoptive parenting, foster homes and care homes (Pruski & Playford, 2022, p. 46). This

suggestion is made too quickly. Especially amongst members of the anti-abortion movement, adoption is often imagined to be some silver-bullet alternative to abortion. But the reality is that this raises significant ethical problems of its own, mostly stemming from the ineffectiveness of such systems and institutions in serving needy children and the harms such systems afflict to the children who go through them. Given the shortcomings of the existing systems and institutions, treating ectogenesis as a replacement for abortion would only serve to exacerbate existing problems, which would be unethical in its own right.

Children born from artificial wombs would effectively be abandoned children. While their biological progenitors may still be living, these children would lack conventional parental figures. So, using ectogenesis as an alternative to abortions that are sought to avoid parenthood is effectively a method of producing abandoned children. The World Health Organization estimates that around 73,000,000 abortions take place each year worldwide (World Health Organization, 2021). If ectogenesis is to replace abortion as the way to terminate a pregnancy without the pregnant person becoming a parent, something needs to be said about the influx of 73,000,000 more abandoned children each year.

The systems currently in place are not equipped to handle such an influx of new children in need of care. They are already failing to address the needs of existing orphans and children in need. In 2020, there were 632,000 children and youth in the US foster care and adoption system (U.S. Department of Health and Human Services, 2021). In the same year, there were only 57,900 adoptions. These numbers are representative of any given year, meaning each year only about 9.16% of children needing to be adopted find a new home. Outside of the US, the data that has been collected indicates 1,225,700 children

living in residential care institutions with some estimates being as high as eight million, although even these are made with gaps in global data owing in part to many unregistered institutions meaning the true number may be higher (Lumos, 2017a).

The idea of adding 73,000,000 more orphans per year to the existing population of orphans or children who otherwise lack a protective family environment is absurd. Of course, if ectogenesis does become a practical reality, it will not completely replace abortion, and the number of new abandoned children per year will not be as high. It would be naïve to think that ectogenesis technology would be equitably accessible to everyone worldwide. 45% of worldwide abortions are unsafe and 97% of unsafe abortions take place in developing countries (World Health Organization, 2021). Unsafe abortions are a consequence of inadequate access to proper abortion healthcare services. Given that safe abortion is not sufficiently widespread and accessible at present, what reason is there to think that ectogenesis technology will be? In all likelihood, if the technology comes to fruition, it will not be adequately accessible for many, especially those in developing countries. Even if the number of people who could adopt children were to dramatically increase, such demand could not feasibly keep up with the increase in the number of children in need of adoption if ectogenesis did come to replace abortion.

Furthermore, there is robust evidence that a child living in a foster or residential care institution is exposed to significant harms. 80 years of observational studies have shown that children living in these institutions suffer deficits in physical growth, cognitive function development, neurodevelopment, and social-emotional and psychological development (Berens & Nelson, 2015). Long-term effects for such children include increased risk of homelessness, criminal record, and suicide (Lumos, 2017b). To toss

children into such systems and institutions is to condemn them to such risks, harms, and suffering. This would be unethical. Therefore, the reason why ectogenesis may not be an obligatory alternative to abortion is because it is plausible that replacing abortion with ectogenesis as a way to avoid parenthood would entail doing something unethical given the significant and mass scale of harms related to sending children born from artificial wombs into the care of adoption and foster or residential care institutions.

Both the adoption argument and the artificial womb argument fail for similar reasons. Both are presented as alternatives to abortion that do not entail the death of the fetus, but the availability of such alternatives does not make choosing abortion over them morally impermissible. There are of course some differences between the cases. In the adoption case, the pregnant person must still go through pregnancy and childbirth. For those who wish to avoid parenthood as well as wish not to go through pregnancy and childbirth, adoption is not a genuine alternative because it requires them to go through precisely the things they wish to avoid. The artificial womb technology does not have this issue, the embryo or fetus can be removed early on. However, the right to life understood as a negative implies that a fetus is not entitled in virtue of having a right to life to be preserved, including a right to continue to use and occupy another's body so that the future child can be adopted or to be placed into an artificial womb. From these cases, I suggest that there is a general pattern concerning any argument that seeks to present an alternative to abortion as a way of terminating a pregnancy as something that renders abortion morally impermissible. Any such argument must grapple with the fact that fetuses are not entitled to preservation and that pregnant people retain rights concerning the management of their pregnancy, including whether and how to end it.

CHAPTER 4: THE MORAL STATUS OF FETUSES AND NEWBORNS

Having examined the details of Thomson's argument to show that it runs into a new problem of an analogy between abortion and infanticide based on parallel arguments from reasoning about the contours of a right to life, I conclude that Thomson's argument can be revised to successfully address this new analogy by recognizing the right to choose parenthood. Because undertaking parenthood is not obligatory, it is permissible to choose not to undertake it, such as by having an abortion. Following Thomson's reasoning about the contours of a right to life, a fetus's right to life does not entail a right to have anyone enter parenthood or surrender the right to choose parenthood and become a parent to the child that fetus would become. Abortion is permissible because choosing to avoid parenthood by having an abortion does not violate a fetus's right to life because it does not deprive a fetus of anything it has a right to in virtue of having a right to life. Recognizing the ethical relevance of choosing parenthood to the ethics of abortion allows for reference to the moral nature of parenthood to explain the impermissibility of infanticide. Parenthood is a relational status entangled with special moral responsibilities. Parental responsibilities include ensuring the well-being of one's newborn, meaning a parent committing the infanticide of their newborn is impermissible. No one is obligated to undertake parenthood, but once one does undertake parenthood and becomes a parent, they are obligated by parental responsibilities. Thus, by recognizing the right to choose parenthood as an important consideration relevant to the ethics of abortion, and acknowledging the moral nature of parenthood, Thomson's argument can be revised to successfully address the challenge of the analogy between abortion and infanticide and maintain that abortion is morally permissible while infanticide is not.

This chapter will provide similar argument to that in chapter 2, but from a different angle. The argument in chapter 2 demonstrates the ethical significance of parenthood by showing how recognizing the moral nature of parenthood and the right to choose parenthood addresses the problematic analogy between abortion and infanticide. That argument focused on the moral status of the acts of a pregnant person having an abortion and a parent committing the infanticide of their newborn. Just as Thomson does, the argument in chapter 2 made assumptions about the moral status of fetuses. It presupposed fetuses had the full moral status of persons including a right to life.

What I argue in this chapter is that the relationship of parenthood also has implications for the moral status of fetuses and newborns. I argue that there is a disanalogy between the moral status of fetuses and newborns in virtue of the relationship newborns participate in that fetuses do not. This difference in moral status is further grounds for a disanalogy between abortion and infanticide. Thus, we see another way in which parenthood is ethically relevant to the ethics of abortion. We see that the relationship of parenthood entails there is a difference in moral status between fetuses and newborns. This difference in moral status is another reason why abortion is morally permissible but infanticide is not.

I will delineate and defend a relational account of the difference in the moral status between fetuses and newborns, and its implications for claims of the moral permissibility or impermissibility of abortion and ‘after-birth abortion’ (Giubilini & Minerva, 2013). The uniqueness of the offered account is that it explains the difference in moral status between fetuses and newborns without appeal to intrinsic features, such as personhood or the rights to life of an individual. Instead, the relevant moral status, that is, the moral status that

matters for ethical questions of abortion and infanticide, is marked by special relational features, rather than more commonly exploited intrinsic features. Specifically, it is what I will call the ‘parent-child relation’, and what this relation carries with it. This relation has a moral dimension in that it carries with it special moral responsibilities for those who stand in it, particularly for those on the ‘parent’ side. I will call these special moral responsibilities ‘parental responsibilities’. They are the responsibilities that bind one in so far as one is a parent to a child. I argue that the difference in moral status between a fetus and a newborn is that the newborn has the relational morally relevant feature of being the proper object of parental responsibilities, while the fetus does not. This is because the fetus conceptually understood is not the sort of thing that can stand in a parent-child relation. Being the proper object of parental responsibilities is a morally relevant feature that enhances the moral worth of a newborn over and above that of a fetus, as this is one moral consideration that applies to newborns but not to fetuses. Therefore, there is a difference in moral status between fetuses and newborns. As a consequence for the question of the moral permissibility of abortion and infanticide, there is no inconsistency in claiming abortion is morally permissible while also claiming infanticide is morally impermissible.

The notion that fetuses and newborns have equal moral status is a common one in the existing literature on the ethics of abortion. It has a long history in debates on the ethics of abortion, especially with Catholic and pro-life positions. But not all arguments that use this premise are religious arguments. For example, Nikolaus Johannes Knoepffler and Martin J O’Malley argue from a secular perspective that the right to life as recognized by the United Nations Universal Declaration of Human Rights ought to be granted both to human newborns and unborn human fetuses (Knoepffler & O’Malley, 2013). Because both

are in some sense human, and humans have a fundamental dignity, both have a right to life that ought to be respected. However, utilization of this common premise that fetuses and newborns have equal moral status is not only used to argue against the moral permissibility of abortion. C.A.J. Coady points out that this common premise is utilized not only in anti-abortion arguments but also in ‘after-birth abortion’ arguments (Coady, 2013).

Alberto Giubilini and Francesca Minerva argue that after-birth abortion, or infanticide, should be permissible in all cases that abortion is permissible (Giubilini & Minerva, 2013, p. 262). To clarify, Giubilini and Minerva do not argue that killing babies is morally permissible. Instead, they point out that if abortion is morally permissible, then consistency demands that infanticide is also morally permissible, as similar reasons apply in both cases. One of the presuppositions of their argument is the idea that fetuses and infants have equal moral status. They state, “The moral status of an infant is equivalent to that of a fetus in the sense that both lack those properties that justify the attribution of a right to life to an individual” (Giubilini & Minerva, 2013, p. 262). By drawing equivalence in moral status between fetuses and newborns, anti-abortionists appeal to the fetuses’ potential to become persons as grounds for the moral rights of the fetus, just as with newborns. On the other hand, those who argue for the after-birth abortion position use the equivalence in moral status between fetuses and newborns as grounds for a different conclusion. They argue due to the equivalence in moral status between fetuses and newborns, some grounds to think abortion is morally permissible are also grounds to think infanticide is morally permissible.

Giubilini and Minerva deny that either fetuses or newborns possess a right to life. For them, neither the fetus nor the newborn is a ‘person’ in a morally relevant sense.

Consistency would appear to require both abortion and infanticide to be morally permissible. Because personhood has traditionally been the marker for moral status, and plays a role in Giubilini's and Minerva's argument, some argue against them on the grounds that they presuppose an incorrect or controversial account of personhood (Beard & Lynch, 2013; Manninen, 2013, p. 330). Others argue personhood is only one possible determinant of moral status, and that it is possible for something to have moral status without being a person. So, there is a focus on personhood by proponents of competing views.

In a similar appeal to consistency, David B. Hershenov and Rose J. Hershenov contend that fetuses and newborns share the same intrinsic morally relevant features. They state, "there is no way to distinguish an infant from a fetus in terms of an intrinsic morally relevant feature that the former has and the latter lacks—neither one is rational, morally responsible, self-conscious, concerned about the future, etc." (Hershenov & Hershenov, 2017, p. 388). Because fetuses and newborns are the same in their intrinsic morally relevant features, abortion and infanticide must either be both morally impermissible or both morally permissible. This is a particular problem for those sympathetic to a 'pro-choice' view of abortion. A point of agreement between 'pro-choice' and 'pro-life' folk is that neither group believes infanticide is morally permissible, but 'pro-choice' advocates do believe abortion is morally permissible. Thus, the 'pro-choice' side appears to be inconsistent.

A serious challenge then is to explain how it could be the case that abortion, understood as the termination of a fetus, is morally permissible, while infanticide, understood as killing one's newborn, is not morally permissible. Thus far, ethicists have

primarily focused on intrinsic morally relevant features of fetuses and newborns. The right to life, human dignity, personhood, rational capacity, and having a certain sort of consciousness are all (amongst others) common intrinsic features taken as relevant to establishing moral status. By focusing on intrinsic morally relevant features, those on all sides of the debate come to accept the common premise that fetuses and newborns have equal moral status. But, intrinsic features are not exhaustive of what is relevant for establishing moral status. There are non-intrinsic features, specifically relational features, which must be considered when trying to understand the moral statuses' of fetuses and newborns.

By examining a specific relational morally relevant feature of newborns, I will show there is a difference in the moral status between fetuses and newborns such that there is no inconsistency in claiming abortion is morally permissible while also claiming infanticide is morally impermissible. I will argue for this relational account by examining the relation between the concepts of 'parent' and 'child', and the moral dimensions of this conceptual relation.

My account builds on Neil Levy's (2013) relational account of the moral worth of newborns. On a relational account, newborn babies have moral worth that depends on relational rather than intrinsic facts about them (Levy, 2013, p. 327). Amongst other things, newborns have moral worth due to relational status with their parents. While Levy offers an account of how newborns have moral worth, I go further. I offer an advancement of a relational account of the morally relevant features of newborns, arguing that the special relational properties of newborns are not only a source of moral worth, but that the relational morally relevant feature that newborns have is one fetuses do not. Ergo, the fetus

and the newborn do not have equal moral status. This is because of the specific relation newborns stand in, called the parent-child relation. This parent-child relation grants parents special moral responsibilities for which the newborn is the proper object, but the fetus is not. As such, being the proper object of parental responsibility is one moral consideration that applies to newborns but not to fetuses.

Parental responsibilities are a subset of more general moral responsibilities. What distinguishes parental responsibilities from more general moral responsibilities is that parental ones are those special responsibilities people have in virtue of having the status of 'parent'. The concept of a parent can be understood then as one with which special moral responsibilities, or parental responsibilities, are entangled. Those who have children, raise children, are the legal guardians of children, or are primary caregivers of children are intuitive examples of people who act in the role of parents and therefore have parental responsibilities in virtue of their role. So, parental responsibilities are to be understood as those special moral responsibilities that belong to those who are parents.

If in any case where one is a parent, one also has parental responsibilities in virtue of being a parent, one may wonder how these parental responsibilities are acquired. In other words, what is the source of parental responsibilities? As mentioned, Millum proposes a conventional-acts account of the acquisition of parental responsibilities (Millum, 2018, p. 79). On this account, parental responsibilities "are taken on by individuals through acts whose meaning is determined by social convention" (Millum, 2018, p. 79). Two paradigmatic examples of taking on the role of parent and thus the accompanying parental responsibilities are giving birth and adopting children. Social convention dictates that the biological mother of a newborn is in normal circumstances also that newborn's parent in

the broader sense with all the responsibility that comes with that role. Social convention also dictates that those who commit to adoption become adoptive parents and thus acquire parental responsibilities by committing to and taking on the role of parent.

Because the role of parent is entangled with moral responsibilities, the real question is how does one acquire the role of parent and enter a parent-child relation? Two obvious answers are by choosing to have biological children or adopting children. When someone willingly becomes pregnant for the purpose of becoming a parent, or decides to adopt, they are moving toward the role of parent. Once the baby is born, or the adoption is finalized, the person becomes a parent. One may point out that this notion of becoming a parent implies that the putting up of a child for adoption is a violation of parental responsibilities. However, my claim is only about how one becomes a parent and thus acquires parental responsibilities and not about what particular responsibilities parents have.

Furthermore, while parenthood is entangled with moral responsibilities, it does not mean that one cannot become free of those responsibilities. It is possible to be relinquished of the role of parent and the accompanying moral responsibilities much like how it is possible to be relieved of a promise if the person one makes a promise to relieve them of their responsibility as the promise-maker. Putting a child up for adoption is one such way a person relinquishes the parent-child relation and the entangled moral responsibilities. One may wonder then under what conditions it is morally permissible to place one's child up for adoption if one's role as a parent is entangled with moral responsibilities to that child. I do not rule out the possibility of cases in which placing one's child up for adoption is not only consistent with parental responsibilities but demanded by them. I am imagining a case in which the parent cannot live up to their moral responsibilities and treat their child as the

proper object of them by their own devices. When parents find themselves in extreme circumstances, parental responsibilities may require that the parent who is not fit to parent ought to give up their role of parent to another entity. This is to say that there are cases, usually ones of extreme circumstances, in which a parent can relieve themselves of their parental responsibilities and thus their status as a parent in that particular parent-child-relation despite those responsibilities being entangled with that status of parent.

Because the status of parent is relational status, to be a parent is not due to any intrinsic features or qualities of a person. Rather, to be a parent depends on having children of one's own and is therefore dependent on standing in relation to others. Having the status of a parent means one stands in a parent-child relation with another, where that other is the child. The same is true for status of child.

Newborns are the proper object of parental care and are the proper object of parental responsibilities. This means that parental responsibilities are those one has for the newborn with whom they stand in parent-child relation. It is this special status, the status of being the proper object of parental responsibility, which belongs to the newborn baby. Because parental responsibilities are moral responsibilities, it is wrong to violate them if one has them. Killing one's newborn constitutes a violation of one's parental responsibilities, and is therefore wrong.

While one way to try and argue for the conclusion that killing a newborn is wrong is to claim the newborn has some intrinsic morally relevant feature, such as a right to life, personhood, or a certain capacity for consciousness and feeling, I have shown there is another way. The special relational features between parents and their children carry with them special moral responsibilities that one would be violating if they killed their newborn.

However, a difference between this relational account and more common appeals to intrinsic morally relevant features is that this relational account cannot be appropriately adjusted to apply to fetuses. The unborn fetus is not the proper object of parental responsibility. This is because the fetus is not the sort of thing that can stand in a parent-child relation.

To see why it is the case that a fetus is not the sort of thing which can stand in a parent-child relation, we must examine the concepts of parent and child more closely. What we will find is that thinking that a fetus is the sort of thing which can stand in a parent-child relation requires a most confused conception of the concepts of parent and child. Consider the commonplace attribution of the status of parent, a mother with her newborn. The mother in this case is a paradigmatic example of a parent. But now consider a case of a pregnant woman with no prior children. The pregnant woman in this case is not a parent. They are only a potential parent and thus do not stand in a parent-child relation. This has direct implications for the metaphysical and moral status of the fetus in this scenario. We can say that the fetus then also does not stand in a parent-child relation. Both sides of the parent-child relation are absent, for there are not parents and the fetus is not a child, and therefore nothing for the fetus to stand in the relevant relational status with. Thinking that the fetus does stand-in a parent-child relation requires a problematic conception of what it means to be a parent. Pregnant people carrying fetuses are not parents to that fetus, but only potential parents.⁶A potential X is not an actual X. So, Potential parents are not actual parents. Because thinking a fetus stands in a parent-child relation requires thinking that

⁶ See earlier discussion in chapter 2

potential parents are actual parents and this is false, the fetus does not stand in a parent-child relation, and thus cannot be the object of parental responsibility.

One may object to this on grounds that the fetus is in fact a child. As such, the fetus must stand in a parent-child relation, and therefore be a proper object of parental responsibilities. One might think that when a woman is pregnant there already exists a child because there is an organism that shares DNA with its parents (Hendricks, 2019a, 250). While it is common to refer to a fetus as an ‘unborn child’, this is inaccurate.⁷ We can distinguish between two senses of the term ‘child’. The fetus is certainly a child in some biological sense but is not a child in a morally relevant sense. To think of a fetus as a child understood as the proper object of parental responsibilities is akin to thinking of a planted seed as a grown sprout. A planted seed is positioned to grow into a sprout but has yet to become one. Similarly, a fetus is positioned to become a child but is not yet one. To be growing towards something requires that one is not yet there. A fetus is only a potential child in the same way a planted seed is a potential sprout, and it would be a mistake to confuse such potentiality with actuality. Potential things do not have the same rights and moral status as actual things. Potential judges are not judges, potential homeowners are not homeowners, potential people are not people, and potential children are not children. Because a fetus is still on its way to becoming a child in the morally relevant sense, it is not, nor could it be, a child in the morally relevant sense. Thus, a fetus cannot stand in a parent-child relation.

⁷ Recall the discussion in chapter 2

Still, one may contend that all that is required to understand the fetus as a child in the morally relevant sense is to recognize the fetus as the biological germinating organism of the woman carrying it. To be the pregnant woman's child in the morally relevant sense requires only that the fetus is an organism with the appropriate biological connection to the pregnant woman. One may try to argue from this biological account of childhood to show that the fetus is a child in the morally relevant sense, can stand in a parent-child relation, and be the proper object of parental responsibilities. However, this biological account is untenable. Merely knowing the biological connections and features the fetus has tells us nothing about what moral features it may have. It is not clear what moral significance standing in a biological connection with a pregnant woman has. To take a fetus's biological connection to the woman carrying them somehow meaning that the fetus also stands in the relevant moral relation with the same woman only assumes the truth of precisely what is in dispute. A fetus by its nature stands in a biological relation with a pregnant woman. The question is whether it also stands in the relevant moral relation. Pointing out a fetus' biological features tells us nothing about its moral features, if there even are any such moral features.

Lacking argumentative support is not the only issue with this biological account. It is also too narrow an account in that it restricts the status of being a child in the morally relevant sense to those organisms which share DNA with the people that carried them. This is a mistake, for biological connections are not the only way for beings to stand in a parent-child relation. Those who adopt children are examples of people who stand in a parent-child relation with their adopted children but do not necessarily share DNA or have any biological connection with those children. What creates a parent-child relation with

adoptive parents and their adopted children has nothing to do with any sort of biological connection. Being an organism that shares the DNA of another is not necessary for standing in a parent-child relation. Nor is it the case that being an organism that shares the DNA of another is sufficient for standing in a parent-child relation. While a growing fetus shares DNA with the pregnant woman, it is still on its way to developing into a child, and therefore is not yet the sort of thing that could stand in such a relation.

Biological relations are not necessary for parenthood, but a proponent of a biocentric view may contend that they are sufficient. But this too is mistaken. The relationship between a sperm donor and a child born from the use of the donor's sperm is an example of a biological connection without parenthood. So, biological connections are neither necessary nor sufficient for parenthood.⁸

But even if the fetus is not a child, why think there are no parental responsibilities toward it? Even though pregnant women and any fetuses they carry stand only in a potential parent-child relation there still seems to be certain responsibilities pregnant women have toward their fetuses. For example, it is right that women ought not to consume alcohol while pregnant, as this has foreseeable and severely harmful consequences once the baby is born. It would be irresponsible to act in a way that would cause future harm to one's newborn. There may even be responsibilities people have before they are pregnant, such as ensuring they are in a sound financial position so that they can actually support a newborn. So, it would appear there are some responsibilities people have toward the fetuses they carry that appear similar to responsibilities parents have to their children in so far as

⁸ See previous discussion in chapter 2

they are prospective parents. While some choose not to become parents by preventing pregnancy or having an abortion, those who accept pregnancy have responsibilities that resemble the responsibilities parents have toward their children. One might think then that parenthood and parental responsibilities begin before birth.

However, the metaphysical relation between the pregnant woman and the carried fetus is different from a parent-child relation. The responsibility to refrain from consuming alcohol is not a responsibility of parenthood, for the pregnant woman is not yet a parent. Whatever responsibilities a pregnant woman has toward their carried fetus (if any) are not parental responsibilities because their relation is one of a pregnant woman and fetus, and not of a parent and child. Consider the responsibilities a babysitter has to take care of the baby they are babysitting. Their responsibilities, whatever they may be, are not parental ones for the babysitter is not the baby's parent and their relationship with the child is not a parent-child relationship, even though the particular responsibilities the babysitter has may be the same as the parent's. Whatever special relationship pregnant women have with their fetuses is not parenthood for the aforementioned reason that potentiality is not the same as actuality. Women who have accepted their pregnancy are only potential or prospective parents, not actual ones. So, do not have parental responsibilities as they are not yet parents.

Moreover, the moral responsibilities one has during pregnancy are not responsibilities one has toward any fetus they carry. This is to say that the fetus is not the proper object of the responsibilities of pregnancy and that even when it comes to the responsibilities of pregnancy the fetus is not the ultimate object of moral concern. Consider what makes it the case that consuming alcohol during pregnancy is wrong. The wrongness of consuming alcohol during pregnancy is constituted by the harms it would have to the

born child. It is the born child that will suffer the effects of Fetal Alcohol Syndrome. If it were the case that impairing the fetus by consuming alcohol was without harms to the born child, then it would not be clear what exactly the wrong of consuming alcohol during pregnancy consists of. In such a counterfactual case, it would not be wrong, for there would be nothing of moral significance to make it wrong.

Some argue because the impairment of a fetus via alcohol consumption during pregnancy is wrong, abortion is also wrong (Hendricks, 2019a). While consumption of alcohol is certainly damaging to the fetus, it is the born child that actually suffers the morally relevant harm. Consider an alternative universe where pregnant women do not give birth but simply carry fetuses forever. If a woman were to consume alcohol and damage the fetus in this alternate universe, would they be doing something wrong? In this universe, there would be nothing that would go on to suffer from the damage done to the fetus, and thus nothing for the woman's actions to be wrong. This thought experiment is to demonstrate that it is only the born child that is the object of moral consideration. In a world where fetuses do not become born children, it is not clear what their morally relevant features are, and therefore not clear why impairing fetuses would be wrong. The important distinction at work here is the one between harming or impairing a thing and wronging a thing. The harm a pregnant woman would do by consuming alcohol does not constitute wrongdoing to the fetus. Instead, it is a wrongdoing toward the future child, for it is the born baby that will suffer. Thus, a pregnant woman's irresponsible action of consuming alcohol would be a violation of their responsibilities of pregnancy of which the proper object is the born child, not the fetus. This creates a dis-analogy for those who want to draw moral similarities between abortion and damaging a fetus. When one damages a fetus, one

is wronging the future born child (assuming the pregnant woman will go on to give birth), but when one has an abortion there is no future born child to be wronged, so there is a disanalogy between abortion and harmful actions that would result in wrongdoing to the future born child. This shows that even the unique moral responsibilities that bind pregnant women are not to the fetus. The responsibilities one has for caring for the fetus are ultimately to benefit the born child who is the proper object of moral concern. While the responsibilities prospective parents have are not parental responsibilities, the fact that it is the prospective child and not the fetus that is their proper object of moral concern adds further difficulty for the question of what the morally relevant feature of fetuses is, for even preventing harm to and taking care of the fetus is not done for the fetus's sake, but instead for the sake of the born child.

This brings us to the following: the newborn, because it stands in a parent-child relation, is the proper object of special moral responsibilities, or parental responsibilities, and the fetus, because it is not the sort of thing which can stand in a parent-child relation, cannot be the object of parental responsibility. Because parental responsibilities are a specific sort of moral responsibilities, it is wrong to violate them. To commit infanticide, understood as killing one's newborn, is a violation of one's parental responsibilities, and is therefore wrong. This is a moral consideration that applies to newborns but not to fetuses. There are no parental responsibilities toward a fetus, for a fetus is not the sort of thing which can stand in the sort of relation required to be the proper object of those responsibilities. The special relationship pregnant women stand in with their carried fetuses is not parenthood, and any special responsibilities one has during pregnancy are not parental responsibilities but are nevertheless for the future born child and not the fetus, as

only the newborn is the ultimate object of moral concern. This additional moral consideration of being the proper object of parental responsibilities is a relational morally relevant feature that newborns have but fetuses do not. Because this moral consideration applies to newborns but not to fetuses, there is a difference in their respective moral statuses.

Still, one could accept that fetuses are not the proper objects of parental responsibilities but argue there could still be other special moral responsibilities or considerations that apply to fetuses that keeps their moral status level with newborns. That is to say, it could still be the case that fetuses have moral worth sufficient to make abortion morally impermissible. Equivalence in moral status need not be a result of equivalence in the source of moral status. That is to say that fetuses and newborns could still have equal moral status, for the moral worth of a fetus may be grounded in some other special moral consideration unique to fetuses. However, there is a massive burden of proof for those who wish to maintain equivalence in moral status between fetuses and newborns to explain the source of this moral equivalence. Proponents of the equal status of fetuses and newborns must explain what the nature of the special moral considerations unique to fetuses is, if indeed there are any such considerations. As of now, there is no clear moral consideration, no morally relevant feature, unique to fetuses to put them on par in moral status with newborns. Considerations such as personhood, potential personhood, and a right to life are problematic, for fetuses are not nor ever have been conscious in the way required for personhood in a morally relevant sense, nor does their right to life (if indeed there is such a right) entail a right to freely occupy a woman's body.

Though the idea that fetuses and newborns have equal moral status is utilized in arguments for multiple positions in the abortion debate, I have shown this premise is false. By examining the relational morally relevant features of newborns, one finds that the moral consideration of being the proper object of parental responsibilities applies to newborns but not to fetuses. Thus, there is a difference in moral status between the two. The upshot of this difference in moral status is that it is consistent to claim abortion is morally permissible, while also claiming infanticide is not morally permissible. Additionally, it means that arguments can no longer appeal to the common premise that fetuses and newborns have equal moral status if they are to be sound. Suppose one is to maintain that there could still be some morally relevant feature of fetuses, such as being the object of special moral responsibilities, sufficient enough for abortion to be wrong or for fetuses to share equal moral worth with newborns. In that case, there is a great burden of proof to explain what those supposed morally relevant features are. The important difference now is that answers to such questions cannot be soundly argued for by appealing to equivalence in moral status between fetuses and newborns.

CHAPTER 5: ORPHANS AND MORAL STATUS

In this chapter, I address objections to my argument in chapter 4. It has been objected that the relational account I offer faces a problem concerning the moral status of orphans (Blackshaw & Rodger, 2021; Bobier 2021) It is argued that my account fails to count orphan children as morally significant. If being the proper object of parental responsibility is what makes killing a newborn wrong, then it appears it would not be wrong to kill a newborn that is not an object of parental responsibility. A newborn orphan or any orphan child fits this description, for they do not have parents and thus do not stand in a parent-child relation. It is highly counter-intuitive that killing orphan children is permissible.

Here, I clarify some of my account's central points and explain how the criticisms raised are weak. Chiefly, the criticisms are not supported by any strong argumentation and betray a misunderstanding of the reasoning used to support my account. I address issues concerning my claims that pregnant women are not parents and fetuses are not children, and that the wrongness of giving a fetus fetal alcohol syndrome (FAS) is constituted by the harm to the future child. I also resist the claim that the maternal-child relationship begins during gestation because the case presented for it is question-begging. For these reasons, I conclude the raised criticisms do not amount to strong philosophical case against my account.

Bruce P. Blackshaw and Daniel Rodger reject my claim that a fetus is not the sort of thing that can stand in a parent-child relationship (Blackshaw & Rodger, 2021). They argue that the relationship between a pregnant person and any fetus they carry is the same relationship a parent has with child, for parenthood is an extension of the relationship that

emerges from conception. Blackshaw and Rodger contend that the term ‘pregnant mother’ is used by scholars in medical and scientific disciplines and pregnant women often refer to themselves as mothers. They take this as evidence for the metaphysical conclusion that pregnant women count as parents to the any fetuses they carry. The objection seems to be that pregnant women are parents because they are sometimes called mothers and sometimes think of themselves as mothers. But my concern is whether pregnant women as such are parents in a metaphysical sense, not whether they are called parents or whether they consider themselves parents. A person is not a parent in a metaphysical sense simply because they think of themselves as one or are called one. That pregnant women are referred to as mothers in some contexts and sometimes think of themselves as such is not sufficiently philosophically weighty. I have no objection to how scholars in medical and scientific disciplines refer to pregnant women for as long as this is not confused for proof of a certain metaphysical view of what parenthood is. I have argued in previous chapters for why pregnant people are not parents to the fetuses they carry. Those who insist on the contrary have the burden of proof to give reason otherwise. Blackshaw and Rodger have not provided any reasons to think otherwise.

If we understand gestation as a process, then it is not the case that pregnant women are mothers. My argument for why we should not consider pregnant women as actual parents is interwoven with my reasons for thinking a fetus is not a child. I use an analogy with sprouts. Just as a sprout is not a seedling, a fetus is not a child. Blackshaw and Rodger find this analogy “dubious”. They, however, do not provide any arguments or reasons for why my analogy is mistaken. What they do state is “A seed, however, is not and is never referred to as a sprout” (Blackshaw & Rodger, 2021). This is exactly right. A seed must

progress through a germination process to become a sprout. Similarly, fetuses go through the process of gestation, a process in which they are developing and becoming something. That something is a child. It is this development process that distinguishes fetuses from children and indicates a fetus is only potentially a child and not actually one. And when this process is cut short, such as in cases of miscarriage, the woman never gets to the point of being a parent, and so no parent-child relationship ever arises. So, my interlocutors have failed to grasp my seed/sprout analogy and provide no argument or reasons for why it is mistaken besides labelling it dubious. If they disagree with my analogy, they must provide some argument for why a fetal gestation is not analogous to seed germination. If we do not think sprouts are seedlings, why think fetuses are children?

Blackshaw and Rodger refer to the work of Joseph Millum (2008) and Rivka Wienberg (2008) to argue biological relationships may be sufficient for parental responsibilities. But the moral significance of parental relationships is not dependent on biological connections. It is not clear how a mere biological connection qua biological connection creates moral obligations or contributes to moral status, especially when such obligations and statuses can exist without any biological connections, such as in the case of adoptive parents, and such obligations and statuses can be absent while biological connections remain present, such as in the case of sperm donors. Some explanation must be given about how these new normative features arise. So, in cases where there is both biological connection and moral obligations, the latter is not dependent on the former. In other words, a mere biological connection is not what creates moral obligations or contributes to moral status in cases where there is both biological connection and parental responsibilities. To think otherwise is to fail to distinguish between the biological and the

normative. So, if we think some biological connections are sufficient for parental responsibilities, explanation is needed about how these special moral responsibilities are created. What I think will be found is that these responsibilities arise from normative features rather than biological ones. It is the social norms related to the social interpretation of biological connections that makes for parental responsibilities, not the biological connections themselves.

Blackshaw and Rodger also take issue with my claim that the wrong of giving a fetus FAS is constituted entirely by the harms it does to the future child rather than the ways in which it impairs the fetus. I argue if there were no harm done to the future child, impairment to the fetus via FAS would not be wrong for there would not be anything to constitute its wrongness. They state infliction of FAS seems wrong at the time of alcohol consumption, not in the future. They do not provide an argument for this claim, only assert what seems to them to be the case. This, however, is not in serious tension with the claim that the wrongness of giving a fetus FAS is wrong due centrally to harms to the future child. This is because when a pregnant woman consumes alcohol, there is a reasonable expectation her behaviour will lead to a future child being harmed by the effects of FAS. So, we can say a pregnant woman who consumes alcohol during pregnancy is acting negligently. However, if there is no expectation of future harm, such as in the case where the pregnant woman gets an abortion, then there is an absence of any wrong-making feature.

On my analysis, the wrongness is constituted by reasonably expected harm. We may ask what the relationship is between risk of harm and actual harm. If the wrongness of giving a fetus FAS is constituted by actual harm to a future child, then there seems to be

something of a non-identity problem. At the time the fetus is physically affected, there is no future child to be harmed. What then is the harm if the being that would suffer the harm does not exist? One answer might be that the wrongness is not constituted by actual harm but rather by risk of harm. However, assessments of risk must be made with attention to certain facts. Whether or not we can expect harms to be suffered depends on certain facts. For instance, if we know that for one reason or another the pregnancy is unviable and so there will never be a future child, then the risk of harm to a future child is zero. The same is true if we know that the pregnancy will be aborted. We can say that an instance of giving a fetus FAS is wrong when we have high confidence that it will lead to harm to a future child when we know that there will be a future child to suffer those harms. Of course, we cannot tell the future with certainty, but with our knowledge of the effects of giving a fetus FAS and relevant facts about the pregnancy in question, we can make a judgment about what sort of risks and harms we can reasonably expect will occur.

But if we do think there is something wrong with impairing a fetus independently of any harms to future children, then it would appear fetuses are proper objects of the responsibilities of pregnancy. But the responsibilities of pregnancy are not the responsibilities of parenthood. Pregnancy is a status distinct from parenthood. My claim is fetuses are not the proper objects of parental responsibility. To object to this claim by pointing out fetuses may be the proper objects of the responsibilities of pregnancy is irrelevant. It does not follow from fetuses being proper objects of the responsibilities of pregnancy that they are objects of parental responsibility or that they participate in parent-child relationships. This is due to the distinction between pregnancy and parenthood, a distinction I have already defended.

Blackshaw and Rodger take this distinction to be an artificial one but fail to explain why. They prefer the parent-child relationship to be understood as the continuation of an already existing relationship that began at gestation. The upshot of this is pregnant women would count as parents, fetuses would count as a child, and they would participate together in a parent-child relationship. The only reason they offer in support of this is the psychological phenomena of maternal-fetal attachment (MFA), which they take as evidence for the maternal-child relationship beginning during the process of gestation. But the psychological evidence is not strong evidence for the metaphysical claim. Additionally, whether what is called the maternal-child relationship really is a parent-child relationship is precisely what is in dispute. To say that pregnant women are parents because they begin the maternal-child relationship during gestation presupposes pregnant women participate in a parent-child relationship with their carried fetus, and so is question-begging.

On my view, feeling like a parent is neither necessary nor sufficient for actually being one. Someone without any children, but with a psychological orientation that includes the feeling or belief that they are a parent, is not a parent, but someone with parental responsibilities for some children with a psychological orientation that lacks feeling an identification with being a parent is nevertheless a parent. Perhaps the person in the latter situation is not a very good parent in so far as being a good parent requires at least that one recognize their role and its responsibilities, but that is neither here nor there. While the feeling of being a parent is neither necessary nor sufficient for actually being a parent, such feelings and psychological orientations may have other relevance and importance to parenthood. Specifically, the feeling that one is a parent may be required for the internalization of the status of parent. When one has internalized their feeling of being a

parent, they will also have internalized their sense of duty as related to parental responsibilities. So, while these feelings are not necessary or sufficient for being a parent, they may play a role in internalizing both one's identity as a parent and the duties one has in virtue of this status.

The criticisms my account faces are mostly ones that reject a distinction between pregnancy and parenthood without strong argument. However, my interlocutors do raise the powerful counterexample of orphans for my account. Orphans do not have parents and thus do not stand in a parent-child relationship. As a result, they are not proper objects of parental responsibilities. It seems on my account it would be morally permissible to kill orphans. This is the only serious problem for my account.

In response, I argue that the orphan case does not apply to the analogy with abortion and infanticide as the analogy was presented by Giubilini and Minerva. Because my account is meant to address the problem of the analogy of abortion and infanticide as Giubilini and Minerva presented it, attempted counterexamples that do not fit their analogy, such as the case of orphans, are not a problem for my account.

Giubilini and Minerva argue that if abortion is morally permissible, then what they call "after-birth abortion" which is a particular kind of infanticide, should also be morally permissible for the same reasons that would justify abortion because fetuses and newborns are morally equivalent. They took fetuses and newborns to have equal moral value due to relevant similarities between them, including a lack of rational capacity, a lack of first-person experience, a lack of self-consciousness, a lack of a chain of memory, a lack of autonomy, a lack of a capacity for higher-order thinking, a lack of a capacity for moral responsibility, and lack a capacity of self-determination. The purpose of showing that

fetuses and newborns are morally similar is to show they have equal moral status. From this, Giubilini and Minerva think they can show that abortion and infanticide are analogous. It is important to be clear on just how abortion and infanticide are supposed to be analogous. Giubilini and Minerva do not take the analogy to be simply that if fetuses and newborns have the same moral status, then if abortion is permissible, so is infanticide. Rather, their argument concludes that the moral similarity between fetuses and newborns means that the same reasons that would justify having an abortion would analogously justify infanticide. Abortion and infanticide are meant to be analogous because the same reasons are supposed to be able to justify either. And any instance of infanticide whose reasons were the same as those that would justify abortion would be an instance of after-birth abortion.

The reasons Giubilini and Minerva consider as the potential reasons one may give to justify having an abortion include the social, psychological, and economic harms one may incur if they fail to have an abortion, such as the burdens of going through pregnancy, childbirth, and then of raising the child. However, if one fails to have an abortion, the relevant social, psychological, and economic harms can still be avoided if the parent were to commit after-birth abortion.

In the case of orphans, the reasons that would justify having an abortion do not persist. This is because, in the case of abortion, the relevant reasons are the avoidance of certain social, psychological, and economic harms. On Giubilini's and Minerva's understanding, the analogous case of after-birth abortion is one in which a parent who would suffer or continue to suffer similar social, psychological, and economic harms commits infanticide. However, this cannot apply in the case of orphans. Orphans cannot

be after-birth aborted. This is because they do not have parents that would suffer or continue to suffer the relevant social, psychological, or economic harms. If they did, then they would not be orphans. In the absence of a parent that would have the relevant reasons for committing infanticide, the killing of an orphan cannot be the relevant kind of infanticide that is meant to be analogous to abortion.

The killing of an orphan is an instance of infanticide that is not analogous to having an abortion in Giubilini's and Minerva's view of the analogy because the sort of infanticide they take to be analogous with abortion is after-birth abortion and orphans cannot be victims of after-birth abortion. Because what my account seeks to address is Giubilini's and Minerva's analogy, and their analogy requires the persistence of the reasons that would justify abortion in the case of infanticide, and the presence of these reasons requires the presence of a moral agent to have those reasons to commit infanticide, the case of orphans is not a problem for my account because this requirement is not met in the orphan case.

Thus, opponents have not shown my account to lack support. They disagree that pregnant women do not participate in a parent-child relationship with their fetuses, but do not provide strong arguments against my account. I have explained how their criticisms do not work. That pregnant women are sometimes referred to as and think of themselves as mothers is irrelevant to whether they are parents in metaphysical sense. They claim my seed/sprout analogy is dubious but do not offer strong reasons why. I have explained why parental responsibilities do not arise from mere biological connections, even if some biological relationships seem sufficient for them. I have clarified that giving a fetus FAS is wrong due to the harm to the future child in response to the assertion giving a fetus FAS seems wrong at the time of consuming alcohol. I showed the appeal to the phenomena of

MFA for why pregnant women participate in a parent-child relationship to be question-begging. Finally, the counterexample of orphans does not apply to my account because mine is an account of the disanalogy between the cases of a pregnant person having an abortion and a parent committing the infanticide of their newborn. An orphan does not have a parent that could analogously kill it, so the case of orphans does not apply to the problem my account seeks to address. Given all this, I conclude the raised criticisms do not amount to a strong philosophical case against my account.

CHAPTER 6: FETAL PERSONHOOD AND CASES OF COMPLICATED MULTIFETAL PREGNANCY

In the previous chapters, I have advanced an argument for the moral permissibility of abortion based on the right to choose parenthood and addressed objections to my argument. What I have not yet done is examine any arguments in support of an anti-abortion position. This chapter and the next are dedicated to addressing two arguments for an anti-abortion position.

It is important that I address arguments for the anti-abortion position. My main argument in the previous chapters identified a problem with Thomson's defense and remedied this problem by showing that the ethics of abortion ought to be understood through the lens of the right to choose parenthood. While I argue Thomson's argument implied things that Thomson herself rejected, such as the moral permissibility of late-term abortion, and I argue that Thomson's argument does not provide grounds to escape problematic analogies between abortion and infanticide unless the right to choose parenthood is recognized, I ultimately agree with the general conclusion that abortion is permissible. So, while I argue that abortion is permissible for reasons different than those often presented by defenders of the moral permissibility of abortion, I share in common the view that abortion is morally permissible. However, someone who thinks abortion is morally impermissible should be moved by what I argue in the previous chapters.

The focal problem I consider is the moral analogy between situations of abortion and infanticide. But this of course is primarily a problem for those who hold that abortion is permissible but infanticide is not. If one takes abortion to be impermissible, the problematic moral analogy between situations of abortion and infanticide is resolved not

by showing that there is a disanalogy between the situations of abortion and infanticide. Instead, abortion and infanticide are analogous, but this is unproblematic. If abortion is impermissible, then there no problematic moral analogy between abortion and infanticide, for it can consistently be held that both abortion and infanticide are equally wrong.

This shows the way to another objection to what I argue: What I argue could be rejected in favour of an anti-abortion position, for such a position does not run into a problematic analogy between situations of abortion and infanticide, and so has no need to provide an analysis and solution to this problem which it does not face. The anti-abortion position may seem more favourable because it does not run into the problematic moral analogy in the first place, but this alone does not justify favouring it over what I have argued and defended in the pervious chapters.

In addition to my argument from the right to choose parenthood for the moral permissibility of abortion and disanalogy between situations of abortion and infanticide, there are reasons to reject an anti-abortion position that have to do with shortcomings with the arguments for it.

I consider two routes of defence for the anti-abortion position. The first is an argument from fetal personhood, which takes fetuses to be persons and thus possess sufficient moral status to make abortion. In this chapter, I provide an argument against anti-abortion positions that adopt what is called the substance view of fetal personhood. I do so by considering a difficult case inspired by real-life events. In the chapter that follows this one, I will consider an argument from the second route of defence, which is a novel argument for the anti-abortion position that supposes that fetuses are not persons but concludes abortion is wrong anyway.

The substance view is a view about personhood defended by numerous proponents of an anti-abortion position (Lee, 2004; Beckwith, 2004, 2007; George and Tollefsen, 2008; Friberg-Fernros, 2015, 2018; Blackshaw, 2019a, 2022). On the substance view, all human beings are substances. As Francis Beckwith, a proponent of the view, states, “each kind of living organism, or substance, including the human being, maintains identity through change as well as possessing a nature or essence that makes certain activities and functions possible” (Beckwith, 2004, pp. 34-35). For Beckwith, the nature or essence of human substances is that they are rational moral agents. This nature of being rational moral agents, or possessing a rational nature, is what gives human substances their intrinsic moral worth. As Bruce P. Blackshaw, another proponent of the view, states,

The central claim of the substance view is that we are human animals, that from fertilization have the potential to develop rationality. This potential is known as a rational nature, and it is possessed by all human beings, no matter what stage of development they happen to be at. This makes them morally considerable, and as all human beings have this rational nature, they have equal moral status. (Blackshaw, 2022, p. 54)

The substance view holds that all human substances are rational substances from fertilization and all possess a rational nature at every stage of development (Blackshaw, 2022, p. 55). On this view, a rational nature is not the capacity for rationality. Instead, rational nature is the capacity to develop the capacity for rationality. Human substances have at every stage of their development the potential for rationality, even if this potentiality is not actualized.

The possession of rational nature means that all human substance are “intrinsically

and equally valuable for as long as they exist, no matter what stage of development they may have reached, as they share the same nature” (Blackshaw, 2019a, p. 334). The category of human substances includes zygotes, embryos, fetuses, and postnatal humans. Thus, the substance view entails that zygotes, embryos, fetuses, and postnatal humans are intrinsically and equally valuable for the whole of their existence regardless of their stage of development. This intrinsic and equal value entitles zygotes, embryos, fetuses, and postnatal humans to moral respect and moral consideration by moral agents, meaning they possess moral status and certain moral rights, including a right to life. Because this moral status is independent of their stage of development, zygotes, embryos, fetuses, and postnatal humans all have the same moral status as adult human beings, including possessing a right to life. This means that zygotes, embryos, fetuses and postnatal humans all have full moral status and are persons with a right to life.

According to Rob Lovering, a critic of the substance view, defenders of the substance view hold that rational moral agency is an essential property of human organisms that constitutes their intrinsic value and moral standing (Lovering, 2013, p. 264). William Simkulet, another critic of the substance view, characterizes it as one on which beings like us are essentially rational substances, are inherently valuable, and possess a right to life in virtue of being so (Simkulet, 2019, p. 1002). Many substance view theorists take human fetuses to be rational substances, and so belong to the same moral category as beings like us with a right to life (Simkulet, 2019, p. 1003).

The substance view of personhood serves as a basis for an anti-abortion argument. If embryos and fetuses are persons, then killing them is just as wrong as killing other persons, such as adult humans. Abortion kills embryos or fetuses. So, abortion is just

as wrong as killing other persons, such as adult humans. Killing persons, such as adult humans, is wrong. So, abortion is wrong.

Before I get to why the substance view anti-abortion position fails, consider the following case: In the United States in May of 2022, Ashley Brandt discovered she was pregnant with two fetuses where one had a fatal birth defect that put the other healthy fetus at risk (Tuma 2022). The fetus had a condition called anencephaly, a defect in which the skull does not develop properly. This condition virtually guarantees the baby will be stillborn. While not all cases of anencephaly result in stillbirth, most anencephalic infants die shortly after birth. In one extraordinary case, there was an anencephalic infant who lived to 28 months and was the longest surviving infant who did not require life-sustaining interventions (Dickman, Fletke, and Redfern 2016). But besides this exceptional case, a complication like anencephaly is considered a fatal birth defect that practically means the affected fetus will not survive. Furthermore, anencephaly in at least one fetus in a twin pregnancy increases the risk of death for both fetuses (Amadou et al. 2013; Taşcı et al. 2012). A management option for twin pregnancy discordant for anencephaly is selective abortion to prevent risks to the healthy fetus (Leeker & Beinder 2004). While it has been shown that selective abortion is related to an increased risk of miscarriage, it also reduces the risk of severe preterm delivery in the remaining healthy fetus before 16 weeks (Evans et al. 1994). Even when conventional selective abortion is too high-risk for the healthy fetus, such as in cases of monochorionic twin pregnancies, selective abortion by cord occlusion remains a treatment option (Leeker & Beinder 2004). In Brandt's case, she could not receive abortion care in her home state of Texas due to its anti-abortion laws. In the absence of abortion care, Brandt risked losing both her fetuses. Knowing this, she traveled

to the state of Colorado where she could access the relevant abortion care, and she resumed a healthy pregnancy after having a selective abortion to terminate the defective fetus.

Cases of multifetal pregnancy, especially those in which one fetus poses a risk to the survival of another, are philosophically interesting because they differ from ordinary cases of pregnancy. In ordinary cases, the abortion debate is typically framed as a conflict between respecting the pregnant person's right to bodily autonomy and the fetus's right to life. Crudely, the fetus and the pregnant person have their rights pitted against each other. The risk to the fetus comes from the possibility of the pregnant person choosing abortion. But in cases of complicated multifetal pregnancy, the threat to a fetus comes from another fetus.

Cases of complicated multifetal pregnancy present a problem for anti-abortion positions that endorse the substance view of fetal personhood. I argue that the substance view anti-abortion position faces a difficult dilemma that renders it untenable, which leads to a contradiction: terminating the fetus will mean having an abortion, which is wrong, but refraining from doing so will result in the death of both fetuses, and there is strong reason to think this is also wrong. It would thus be both wrong to have an abortion and wrong to refrain from having an abortion. But this is contradictory. This contradiction problem emerges from the substance view anti-abortion position's inability to make use of a morally relevant distinction between killing fetuses and letting them die such that killing fetuses is wrong but letting them die is not. The anti-abortion position cannot make use of such a distinction for two reasons: First, it will fail to be an anti-abortion position if it does. Second, the substance view provides grounds for why letting fetuses die is wrong anyway. Thus, in cases of complicated multifetal pregnancy, the substance view anti-abortion

position must hold that it will be both wrong to have an abortion and wrong to refrain from having an abortion. This is contradictory, so the substance view anti-abortion position is false.

Distinction can be made between extreme and moderate anti-abortion positions. An extreme anti-abortion position will hold that all abortions in all circumstances are wrong, while a moderate anti-abortion position will hold that abortion is generally wrong but there are some exceptional cases in which it is not. For example, moderate positions commonly try to make exceptions for cases of pregnancy due to rape. However, as Matthew Scarfone argues, moderate anti-abortion positions that attempt to make exception for abortion of pregnancies due to rape are internally incoherent (Scarfone, 2022). Because fetal gestation occurs inside of another's body, the pregnant person's right to bodily autonomy is morally significant. If abortion is wrong because it kills a fetus, and fetuses are, per the substance view, persons with a right to life, then something about the relationship between a fetus's right to life and a pregnant person's right to bodily autonomy must be parsed. If abortion is wrong, then a fetus's right to life is stronger than or outweighs the right to bodily autonomy, and the right to bodily autonomy is circumscribed by the fetus's right to life (Scarfone, 2022, p. 130).

A moderate anti-abortion position that makes an exception for abortion in the case of pregnancy due to rape must hold these two claims: First, a fetus's right to life circumscribes the pregnant person's right to bodily autonomy, and second, abortion of a pregnancy due to rape is not wrong. Rape is a violation of a person's bodily autonomy. So, to claim an exception to the wrongness of abortion can be made in cases of pregnancy due to rape is to endorse the following principle: "A right to life is stronger than, or outweighs,

a right to bodily autonomy, except when the organism that has that right to life is created by a violation of bodily autonomy” (Scarfone, 2022, p. 135) But if a violation of the right to bodily autonomy permits an exception, it can only be because a right to bodily autonomy circumscribes a fetus’s right to life. After all, a fetus in a pregnancy from rape is still a human substance with a rational nature and right to life, and abortion still kills it. If a rape victim is morally permitted to have an abortion, then their right to bodily autonomy circumscribes the fetus’s right to life. So, a moderate anti-abortion position must hold that a fetus’s right to life is stronger than, outweighs, or circumscribes a right to bodily autonomy because it takes abortion to be wrong, but must also hold that a right to bodily autonomy is stronger than, outweighs, or circumscribes a fetus’s right to life if it is to make an exception for rape. But this is incoherent. So, the moderate anti-abortion position that attempts to make an exception for rape is incoherent.

Cases in which the pregnant person’s life is at risk are other cases for which moderate anti-abortion positions attempt to make exceptions. Scarfone’s analysis will not hold in these cases. An exception for cases of rape relies on the claim that the rape victim’s right to bodily autonomy is stronger than, outweighs, or circumscribes a fetus’s right to life. But for cases in which the pregnant person’s life is at risk, the competing claims are both right to life claims (Scarfone, 2022, p. 138 note 3). It is not incoherent to say that a right to life is stronger than, outweighs, or circumscribes a right to bodily autonomy, but is not stronger than nor outweighs another right to life. So, a moderate anti-abortion position is not incoherent if it makes an exception for cases of abortion in which the pregnant person’s life is at risk.

But coherence is not sufficient for tenability. The tenability of a moderate anti-

abortion position depends on what exceptions it makes. Any exception will require an explanation for why that particular case of abortion is not wrong. The onus will be on the proponent of the moderate position to give reasons for why abortion is not wrong in those exceptional cases. It will be important to keep this in mind because a possible objection can be raised from a moderate pro-life position against what I argue hereafter.

Cases of complicated multifetal pregnancy create a problem for the substance view anti-abortion position. A multifetal pregnancy is a pregnancy that includes more than one fetus. By “complicated multifetal pregnancy” I mean any multifetal pregnancy for which the healthy birth of all fetuses is under threat due to conditions with the pregnancy. Specifically, I imagine a case as follows: A person discovers they are pregnant with twins. Shortly after, they discover there is a complication with their twin pregnancy. Fetus *A* is healthy, but Fetus *B* has a fatal birth defect and will not survive. Furthermore, fetus *B*'s condition threatens fetus *A*'s survival, much like in cases of twin pregnancy with one healthy fetus and another with anencephaly. Unless a selective abortion procedure, which is an abortion in which some but not all fetuses in a multifetal pregnancy are terminated, is performed to terminate defective fetus *B* and save healthy fetus *A*, following through with the pregnancy will result in the death of both fetuses.

The person has two options in this scenario: Have an abortion or not. Let us first consider the option to have an abortion. If they choose to have an abortion, it must be either a non-selective abortion or a selective abortion. If they choose a non-selective abortion and totally terminate their pregnancy, their choice will result in the deaths of both fetuses *A* and *B*. If they choose a selective abortion, either healthy fetus *A* is terminated, or unviable fetus *B* is terminated. In either case, their choice will result in the death of a fetus because it will

result in the death of either healthy fetus *A* or unviable fetus *B*. On the anti-abortion position, abortion is wrong. Both the non-selective and selective abortion options are abortion. So, both are wrong. Thus, the option to have an abortion is wrong. This leaves only the option to refrain from having an abortion.

A possible objection to this might be that a moderate anti-abortion position could make an exception for this scenario. It may be contended that a moderate anti-abortion position could allow for the permissibility of selective abortion in multifetal pregnancies where a defective fetus puts a healthy fetus at risk. A moderate anti-abortion position might hold that, while abortion is generally wrong, having a selective abortion in this scenario is not. It could be argued that it is not wrong to abort the defective fetus because it is not morally like the healthy fetus. As per the substance view, the healthy fetus possesses a rational nature and is a person with a right to life and intrinsic value equal to all other human substances. The defective fetus, however, lacks a rational nature precisely because of its fatal birth defect. Having a fatal birth defect means that it does not have the potential to develop rationality, and so lacks a rational nature. If it lacks a rational nature, it lacks the essential property that makes human substances persons with a right to life and full moral status. What makes abortion wrong is that it kills a person, but a selective abortion of a defective fetus does not kill a person because a defective fetus is not a person due to lacking a rational nature. So, selective abortion in this case would not be wrong.

But this cannot be the case because it contradicts the substance view's claim that all human substances have a rational nature and intrinsic worth, a right to life, and the full moral status of persons. As Blackshaw makes clear,

Importantly, the substance view claims we are rational substances from

fertilization, and so all human beings possess a rational nature irrespective of their stage of development, even though they may not actually possess rationality at every stage. Instead, they all have the capacity to develop it, even if this is prevented from actualizing by a physical shortcoming.

(Blackshaw, 2022, p. 55)

The defective fetus's fatal birth defect is a physical shortcoming that prevents the actualization of a capacity for rationality. But according to the substance view this physical shortcoming does not mean the defective fetus lacks the capacity to develop this capacity. Thus, the defective fetus must still possess a rational nature. After all, the fetus with the fatal birth defect is still a fetus and therefore still a human substance. As per the substance view, it must possess a rational nature that gives it intrinsic moral worth, a right to life, and the full moral status of a person. If fetuses with fatal birth defects are persons, as they are on the substance view, then killing them is just as wrong as killing an adult human being. A selective abortion in the case of a multifetal pregnancy kills a fetus that has a fatal birth defect, and so must be wrong. Therefore, a moderate anti-abortion position cannot make an exception for the selective abortion of an unviable fetus that threatens another healthy fetus in a multifetal pregnancy.

A further argument for why an exception could be made for selective abortion of a defective fetus in a case of complicated multifetal pregnancy might be based on the claim that it is permissible to kill one fetus to save another if doing so prevents both from dying. Selective abortion kills a fetus but does so in the service of saving another in a situation where failure to intervene means both die. But killing a fetus to save another is to use that fetus as mere means to an end rather than an end in and of itself. Failure to treat the

defective fetus as an end in and of itself fails to show it moral respect. Moral respect is something that the substance view holds all human substances are entitled to in virtue of possessing a rational nature that makes them intrinsically and equally morally valuable and grants them the full moral status of persons (Blackshaw, 2019, p. 334). The defective fetus is a human substance, and so is entitled to moral respect. Because it is entitled to moral respect, it must be treated as an end in and of itself rather than mere means. So, it would not be permissible on the substance view to kill the defective fetus to save the healthy fetus, because doing so fails to show it the respect to which it is entitled.

Thus, in cases of complicated multifetal pregnancy, the option to have a selective abortion is wrong on the substance view anti-abortion position. Let us now consider the option to refrain from having any abortion.

The option to refrain will result in the death of both fetuses *A* and *B* due to the complications in their pregnancy created by fetus *B*'s fatal birth defect. This option, while not an instance of active killing, is still a choice that directly results in the death and loss of something that has intrinsic value while there is the opportunity to intervene.

Because the substance view anti-abortion position takes the option to have a selective abortion to be wrong, it must take the option to refrain and let both fetuses die to be not wrong. This is despite the death of both fetuses being the preventable loss of two human substances with intrinsic moral worth. Explanation is required for why allowing the preventable death of two beings that are taken to be intrinsically valuable and possess full moral status would be permissible. The most promising way is with appeal to a morally relevant distinction between killing and letting die.

This strategy will of course depend upon there being a relevant distinction between

killing and letting die. Not all philosophers take this to be the case. For example, Tooley (1972), James Rachels (1975), Peter Singer (1979), and Peter Unger (1996) argue there is not a morally relevant distinction between killing and letting die such that if killings are worse than typical lettings die it must be due to other factors. Rachels imagines two cases in which two men, Smith and Jones, each plan to drown a child in a bathtub to advance the Bare-Difference argument, which is an argument against there being a morally relevant distinction between killing and letting die. In the first case, Jones plans to drown the child in the bathtub, but discovers they are already drowning and refrains from saving them. In the second case, Smith actively drowns the child in the tub. In each case, the child drowns and both Smith and Jones intended that the child drown. The only difference is that Smith killed the child and Jones let the child die. Rachels argues that there is no moral difference between the two cases, which means that the distinction between killing and letting die is not morally relevant as it does not make a moral difference between cases. If there is any moral difference between cases of killing and letting die, it must be due to other factors.

Rachels' argument depends on two things: first, the cases are the same except that one is a case of killing and the other a case of letting die, and second, there is no moral difference between the two cases. Both of these claims have been challenged. For example, Scott Hill (2018) objects to Rachels' Bare-Difference argument on the grounds that there is an asymmetry between the Smith and Jones cases. Smith, who actively drowns the child, has both the option to kill the child but does not have the option to let the child die. Jones, who lets the child drown, has the option to both let the child die or step in and kill the child himself. To create symmetry between the cases we can alter the thought experiment to include an option for Smith to let the child die. In this new case, Smith has the ability to

both kill the child or let them die and insists on killing the child. Regarding this new case, Hill states,

There is something extraordinarily vile and disturbing about intending to kill a child for money, discovering that without one's intervention the child will very likely die anyway, but then absolutely insisting that the child must die by one's own hand. This is worse than simply standing by, hoping that the child will die on his own, so that one does not have to kill to get what one wants (Hill, 2018, p. 768-769).

For Hill, it is intuitively worse to insist on killing rather than to choose to let die in a case where both options are available. If killing and letting die were equivalent, then there would be no difference between Smith letting the child die and Smith discovering that the child is drowning to then pull them out of the bathtub and proceed to slit their throat. In the original thought experiment, Smith did not have the option to let the child die, but because Smith does have this option in the new case and still insists on killing, Hill wants to say that Smith's action in the new case is worse than his action in the original case. According to Hill, that Smith's action is worse in the new case than in the original case is best explained by the hypothesis that killing is worse than letting die (Hill, 2018, p. 769). If so, then the Bare-Difference argument is unsound, for there is a morally relevant difference between killing and letting die.

Warren Quinn (1989) also objects to Rachels' Bare-Difference argument, arguing that the claim of a distinction between killing and letting die (that is, killing and letting die as instances of doing harm and allowing harm respectively) is best understood as about moral justification. Even if Rachels is right both Smith's and Jones' acts are morally

equivalent, this does not lead to the conclusion that killing and letting die are morally equivalent. For Quinn, the distinction between doing harm and allowing harm is that doing harm requires greater justification than allowing harm, assuming all other factors are equal.

Both Rachels and Hill, while arriving at contrary conclusion about a moral distinction between killing and letting die, employ the method of considering cases. For present purposes, we look to how proponents of an anti-abortion position thinking about such a distinction. For example, Henrik Friberg-Fernros argues that a substance view theorist can appeal to a moral distinction between killing and letting die to explain difficult cases (Friberg-Fernros, 2015, 2018). Abortion is wrong because it kills a fetus, but allowing a fetus to die is not killing it and so is not wrong. This is consistent with the hypothesis that killing is worse than letting die. On a view that makes this moral distinction between killing and letting die, abortion is wrong not because it results in the death of a fetus, but because causing the death of a fetus specifically by killing it violates its right to life, where a right to life is understood as a negative right to not be killed rather than a positive right to be saved. Letting a fetus die is not killing it, and so does not violate its right to life and thus is not wrong. It may thus be argued that choosing not to intervene in a complicated twin pregnancy will result in both fetuses dying but does not violate any fetus's right to life and so is not wrong.

We can compare the abortion case to Hill's alternative case. Where there is both the option to have an abortion and kill a fetus or not have an abortion and let both fetuses die, choosing to abort is more like Smith insisting on killing. If Smith's choice to jump in and kill the already drowning child on his own is wrong and worse than letting the child die, and this is akin to aborting the fetus that will not survive anyway, then it would seem

consistency demands that we take the option to have an abortion to kill one fetus to be worse than letting both fetuses die.

Of course, a significant difference in the case of complicated multifetal pregnancy is that choosing to have an abortion means killing one fetus and saving another while not having an abortion means letting both fetuses die. That the former option saves a healthy fetus despite killing an unviable one and the latter options means a healthy fetus dies alongside an unviable one is a morally relevant factor in the equation that complicates the situation. Suppose that there is no distinction between killing and letting die. If so, then certainly a substance view theorist cannot appeal to such a distinction to escape the dilemma cases of complicated multifetal pregnancy present. But suppose there is such a distinction. Even if killing is generally worse than letting die, it not clear that killing an unviable fetus that will die anyway in order to save a healthy fetus that will die if you do not abort is worse than letting both fetuses die. While in the Smith case it is intuitively vile and disturbing for someone to go out of their way to kill another by their own hand despite the fact that their victim is already dying and will be dead soon, I have a different intuition when the act of killing would prevent another from dying. This suggest that there are factors beyond whether or not the act is one of killing or one of letting die that matter to whether choosing to abort a complicated multifetal pregnancy is permissible. Chiefly, it is the fact that killing in this case will save a healthy fetus and letting die will fail to save a healthy fetus. So, even if there is a moral distinction between killing and letting die such that killing is generally worse than letting die, this general rule does not appear to hold in cases of complicated multifetal pregnancy.

Furthermore, it is not clear that any moral distinction between killing and letting

die is available to substance view theorists given the commitments of their view. In response to Friberg-Fernros, William Simkulet argues that a distinction between killing and letting die is not available to a substance view theorist (Simkulet, 2019). This is because any substance view theorist will fail to take their claim that fetuses are essentially persons with intrinsic moral value and a right to life seriously if they attempt to appeal to such a distinction. If any substance view theorist makes this distinction, then they must concede that abortions that do not kill a fetus, but instead only let it die (such as some method of abortion in which the fetus is disconnected from the pregnant person and the left to die, rather than actively killed), would not be wrong. But this is too great a concession for the substance view theorist to make. The substance view is posited and defended in the service of defending an anti-abortion position. This concession would undermine what the anti-abortion position is fundamentally about. The anti-abortion position is a view about whether abortions should be performed, not a view about *how* abortions should be performed (Simkulet 2019, p. 1011). It is concerned with the morality of the act of abortion itself, not merely the methods used to perform it. It takes abortion to be wrong, independently of the methods by which it is performed.

If the substance view anti-abortion position is to make meaningful use of a morally relevant distinction between killing and letting die, then it would have to be revised to hold that abortions performed by methods that does not kill but only let die would not be wrong. But if it does this, it fails to be an anti-abortion position, because it would only take certain methods of abortion, rather than abortion itself, to be wrong. Thus, no substance view anti-abortion theorist can appeal to a morally relevant distinction between killing and letting die and hold that having a selective abortion is wrong but refraining from abortion and letting

both fetuses die is not.

Furthermore, if we accept the substance view's claim that fetuses have an essential property that makes them intrinsically valuable, then there is good reason to think that letting fetuses die is wrong anyway. Supposing that letting a fetus die does not violate its right to life, letting fetuses die could be wrong for other reasons besides violation of a right to life because violation of a right to life is not the only thing that can make something wrong. Some choice may also be wrong because it results in the loss of something morally valuable. If we accept that fetuses belong to the same moral category as beings like us and are intrinsically valuable, then we must accept that fetuses are just as morally valuable as us. A choice that results in the death of beings like us results in the loss of something morally valuable. So, a choice that results in the death of a fetus results in the loss of something morally valuable. The loss of something morally valuable is a strong reason in support of the wrongness of some choice that results in that loss. So, there is a strong reason in support of the wrongness of the choice to let fetuses die.

Consider the following: Imagine some disaster occurs in a local area that creates an atmosphere with pollutants in the air that cause pregnant people to develop conditions that make their wombs inhospitable to fetuses such that no fetus could survive to term in them. Imagine also that pregnant people whose wombs are affected by this condition have access to a pill that completely reverses all the effects of the pollutants such that fetuses would be able to survive the pollutants. If a pregnant person chooses not to take this pill, the fetus they carry will die. Would it be wrong for them to withhold from taking this pill? If it is only wrong to kill fetuses and not wrong to let them die, then it would not be wrong to withhold taking this pill. But according to the substance view, fetuses are in the same moral

category as beings like us and have an essential property that not only gives them a right to life but makes them intrinsically valuable. Thus, the death of a fetus is the loss of something intrinsically morally valuable. Because such loss is a strong reason in support of the wrongness of a choice that results in it, there is strong reason in support of the wrongness of withholding taking the pill.

Compare this to the case of complicated multifetal pregnancy. Choosing not to intervene by having a selective abortion to terminate the defective fetus means letting both fetuses die. By letting both fetuses die, one is making a choice that will result in the loss of two human substances that are intrinsically morally valuable. That a choice will result in the loss of something morally valuable is a strong reason in support of that choice being wrong. So, if we accept the substance view, there is strong reason to think that not intervening by having a selective abortion is wrong.

The substance view anti-abortion position is left with a dilemma. If it is wrong to have an abortion in cases of complicated multifetal pregnancy, then it cannot be wrong to refrain from having an abortion. As explained, it is wrong on the substance view anti-abortion position to have an abortion in cases of complicated multifetal pregnancy. So, it must not be wrong to refrain from having an abortion in those cases. But as explained, there is strong reason to think that it is wrong on the substance view to refrain from having an abortion in those cases. If it is wrong to refrain from having an abortion in those cases, then it must not be wrong to have an abortion in those cases. So, it must not be wrong to have an abortion in those cases. Thus, on the substance view anti-abortion position, in cases of complicated multifetal pregnancy, it is both wrong to have an abortion and not wrong to have an abortion. This is a contradiction. Therefore, the substance view anti-abortion

position leads to contradiction. Therefore, the substance view anti-abortion position is false.

Cases of complicated multifetal pregnancy are philosophically interesting because they are relevant to questions in the ethics of abortion. In the scenario I consider, either a selective abortion must be performed to terminate the defective fetus, or both the defective fetus and the healthy fetus will both die. An anti-abortion position operating on the substance view of personhood takes abortion to be wrong and fetuses to be intrinsically valuable persons with full moral status. Moderate anti-abortion positions make exceptions for some cases of abortion, but the substance view anti-abortion position cannot make an exception for selective abortion of a defective fetus in a multifetal pregnancy. So, it must take the selective abortion option to be wrong. So, the morally permissible choice must be to refrain from having an abortion. However, because this will result in both fetuses dying, an appeal to a morally relevant distinction between killing and letting die must be made. But a substance view theorist cannot make such a distinction without undermining its anti-abortion commitment. Additionally, the substance view provides strong reasons for why letting both fetuses die would be wrong anyway because the death of both fetuses is the loss of two things that are intrinsically morally valuable. The result is that cases of complicated multifetal pregnancy show that the substance view anti-abortion position leads to a contradiction. Because it entails that it is both wrong to have an abortion and wrong to refrain from having an abortion, the substance view anti-abortion position is false.

CHAPTER 7: KILLING AND IMPAIRING FETUSES

Having examined the argument from fetal personhood by showing how the substance view of fetal personhood is untenable due to running into a problematic dilemma, I now critique an argument that takes an opposite approach. Could it be that fetal personhood is irrelevant, and that abortion is impermissible even if we take for granted that fetuses are not persons?

In this chapter, I examine an argument for the moral impermissibility of abortion that attempts to arrive at the conclusion that abortion is immoral independently of whether fetuses have the moral status of persons. This argument is called the impairment argument. I argue that the impairment argument fails. I show that the impairment argument is not adequately defended from the Interest Theory objection, which shows a dis-analogy between giving a fetus Fetal Alcohol Syndrome (FAS) and abortion. Furthermore, no adequate explanation of what wrong-making features constitute the wrongness of abortion or what morally relevant features fetuses have that make killing them wrong, if there are any such features at all, is provided. The failure to specify both the morally relevant feature or features of fetuses and the wrong-making feature of abortion creates a situation where abortion turns out to be a counterexample to the “Impairment Principle” (Hendricks, 2019a, p. 247), which is an important principle underlying the impairment argument. Additionally, I explain why the “Modified Impairment Principle” (Blackshaw & Hendricks, 2021a), cannot save the impairment argument. Thus, the impairment argument fails and it cannot be concluded that abortion is immoral.

The view that fetuses are persons and ought to be respected as such is often the basis for arguments for the immorality of abortion and has been defended by philosophers

including Patrick Lee (2004), Francis Beckwith (2007), and Christopher Kaczor (2010). The idea is that if fetuses are persons, then it is wrong to kill them, and because abortion is the intentional killing or causing the death of the fetus to end a pregnancy, abortion is immoral. Those who reject these sorts of views typically show how fetuses differ from quintessential examples of persons, such as healthy developed adult humans, to deny abortion is immoral. On this framework, the moral status of abortion seems to depend upon whether the fetus is a person.

In contrast, Don Marquis (1989) argued abortion is immoral because it deprives the fetus of a valuable future like ours. Marquis' argument bypasses the question of personhood as it locates the moral worth of the fetus in it being the sort of thing with a valuable future like ours, independently of whether it is a person.

Marquis' argument is derived from his account of the wrongness of killing. Marquis begins what he takes to be an unproblematic assumption: "It is wrong to kill *us*." (Marquis, 1989, p. 189). From here, he investigates why it is generally wrong to kill being like us. For Marquis, what makes killing wrong is primarily its effects on the victim. The loss of life is a total deprivation of all experiences, projects, activities and enjoyments that would have otherwise constituted the victim's future. It is not merely the loss of biological life, where this is merely a change in a biological state from living to not. Instead, it is the loss of all the things that would have constituted the victim's future personal life. Marquis states,

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. (Marquis, 1989, pp. 189-190)

This account of the wrongness of killing is focused what is prevented from being realized when someone is killed. It is the deprivation of a valuable future of experiences, projects, activities, and enjoyments that would have constituted the victim's personal life that makes killing wrong.

Marquis takes this account of killing to be supported by two considerations. First, he takes it to explain why killing is intuitively taken to be one of the worst acts. It deprives its victim of their entire future, and thus deprives them of more than other crime. Second, people who know that they will die soon, such as those with terminal illnesses, believe that dying is bad for them because they lose a future that would have otherwise experienced.

Further, Marquis takes his account to have four main advantageous implications. First, it does not entail that only killing humans is wrong. Because it is the loss of a valuable future that makes killing wrong, any being that would have a valuable future is deprived of it if they are killed. In principle, this includes any non-human beings from other planets. The account thus avoids a potential problem of speciesism in which the future of human beings is privileged over the futures of any other species that may have similar futures of

value. Second, this account entails the possibility that the futures of some actual non-human animals here on earth are sufficiently like ours such that killing them may be seriously wrong. Third, it does not entail that active euthanasia is wrong. People with certain illnesses who are legitimate candidates for euthanasia who face a future of only pain and suffering do not lose a valuable future if they are killed. Marquis takes this to be an advantage because other accounts of the wrongness of killing may take active euthanasia to be wrong even though there may be good independent reasons in support of its moral permissibility, though Marquis does not go into detail about what these reasons might be. Last, this account straightforwardly explains why killing children and infants is wrong. The case of infants is important because some accounts of personhood will not count them as person. So, on an account of the wrongness of killing that takes the act of killing to be wrong on the grounds that it ends the life of a person, infanticide may not be wrong if infants are not considered persons. Marquis' view accounts for the wrongness of killing infants independently of any view of personhood because killing an infant deprives it of a valuable future like ours.

From Marquis' deprivation account of the wrongness of killing, it is easy to see why Marquis thinks abortion is immoral. Abortion deprives a fetus a valuable future like ours. By killing a fetus via abortion, the fetus is deprived of a future of experiences, projects, activity, and enjoyment. Importantly, this is independent from whether or not the fetus is a person. Marquis' account is thus able to evade any questions and complications that emerge from questions of fetal personhood. It does not matter whether a fetus is a person or not, because what matters is whether killing it deprives it of a valuable future like ours.

However, Marquis' argument has difficulty dealing with what are referred to as 'Identity Objections' (McInerney, 1990; Sinnott-Armstrong, 1999; McMahan, 2002, pp. 190-191; Brill, 2003; Lane, 2003; Lovering, 2005; Reitan, 2016; Brill, 2019), which challenge whether fetuses really have a futures like ours, and 'Contraception Objections' (Norcross, 1990; Savulescu, 2002, p. 133), which contend that Marquis' account leads to the absurd conclusion that using contraceptives or practicing abstinence is morally impermissible.

Identity objections reject Marquis' account on the basis of numerical identity. For Marquis, human fetuses are numerically identical to any adult human they may develop into. For this reason, human fetuses have a future like ours. But this is put into question when considering the differences between the relationship an adult human has with their future and a fetus has with theirs. Central here is the notion of psychological continuity. Derek Parfit (1984) discusses the notion of psychological continuity as involving only those facts with which we are familiar, meaning that which is related to our own awareness of our continued existence over time (Parfit, 1984, p. 205). This includes continuity of memory, continuity of character, and intention-to-action. A memory relation is a relation between a person at a later stage and themselves at an earlier stage in life. Where a later person is able to remember an earlier person, or there is an overlapping chain of memory connections, there is memory continuity. Continuity of character is that in which a later stage person has either a similar character to their earlier stage self or whose change in character is explicable by normal causes. Intention-to-action is between an earlier intention and a later action that fulfills that intention (McInerney, 1990, p. 266).

This creates a problem for Marquis' future like ours account of the wrongness of abortion. Fetuses do not have the capacity for the mental life required for memory continuity, continuity of character, or intention-to action. Indeed, embryos and early fetuses lack a developed brain or nervous system. This means embryos and early fetuses lack the capacity for any of the sort of relations relevant to a personal identity. Embryos and early fetuses thus do not have a personal future because they do not have the relevant relations of personal identity. In other words, the fetus is not the earlier stage of a later stage person, for if it were, it would share a personal identity with that later stage person. In order to share a personal identity with that later stage person, it must have the relations of personal identity. However, fetuses thus lack a personal identity continuous with a future person. In the absence of this personal identity, their future cannot be said to be the same as that of some later stage person. The lack of personal identity continuity means that the fetus lacks the personal future that a later stage person has. So, when a fetus is deprived of a future, it is not deprived of a future like ours because its future is not the same personal future as that of a later stage person.

One problem with this sort of objection to Marquis' argument is that by focusing on the mental capacities of embryos and fetuses, it sneaks in a psychological view of personhood. By saying that the embryo or early fetus does not share a personal future with a later stage person due to a lack of mental capacities is tantamount to saying it is not a person, and so not the same person. But Marquis' account does not depend on personhood. It is sufficient for Marquis to say that the embryo or early fetus is the same organism as some future person. Marquis need not be committed embryos and early fetuses being persons. It is enough on his account that there is continuity of the organism. Marquis'

account works fine if he refers just to the future of the organism and does not need to refer to the future of the person.

But Marquis does not escape so easily. Skott Brill (2003) defends the Identity Objection against Marquis' account by appealing to the problem of twinning. Because depriving a thing of a future like ours is wrong, it would seem that on Marquis' account, depriving a would-be-fertilized ovum or a would-be fertilizing sperm of a future like ours, such as by using contraception, would be wrong. Indeed, it would be just as wrong as abortion. This sounds absurd. However, Marquis defends his account from this potential *reductio ad absurdum* by arguing that if the ovum and sperm as sperate beings can be identified with the same future being, then the ovum and sperm are in fact the same being. But clearly, they are two distinct beings. So, they cannot be identified with the same being. The ovum, sperm, and future being are each distinct beings, meaning their futures are distinct from each other as well. Thus, contraception Marquis argues does not deprive the ovum and sperm of separately of a future like ours (Brill, 2003, p. 425).

The problem Brill identifies with Marquis' defense is that it leads to the conclusion that killing a zygote that will produce twins cannot be wrong on Marquis' account. If a single zygote would produce twins, then it cannot be identified as the same being as both future twins, for the twins are two distinct beings. If they are distinct beings, then they are also distinct from that zygote. If they are distinct from that zygote, then they do not share continuity of identity with that zygote, meaning the zygote's future is not any of the twins futures. The upshot of this is that if that would-be-twin zygote is killed, it is deprived of its future, but because that is not also the future of a being like us (either of the twins), it is not a future like ours. On Marquis' account, killing a zygote that will not produce twins (or

triplets, or anymore than one being) is seriously wrong, but killing a zygote that would produce twins (or triplets, etc.) would not be. For Brill, the event of a zygote splitting or not cannot be considered morally crucial (Brill, 2003, p. 426).

Identity objections against Marquis' account cast doubt on the claim that embryos and early fetuses have a future like ours because there are problem concerning personal identity continuity. Contraception objections on the other hand try to show that Marquis' account leads to absurd conclusions. As mentioned, if depriving a thing of a future like ours is wrong, then depriving a would-be-fertilized ovum or would-be-fertilizing sperm of a future like ours by using contraception would be just as wrong as abortion. Against this absurd conclusion, Marquis argues that the futures of either the ovum or sperm are not really futures like ours. But as Brill argued, this response leads to the problem of twinning. So, a different response must be given if Marquis is to defend his account.

One possible line of defence against the contraception objection is to argue that there is no entity that is deprived of a future like ours when contraception is used. Marquis considers four possible candidates that could be the subjects that are harmed by contraception. (1) some sperm or other, (2) some ovum or other, (3), a sperm and an ovum, separately, or (4) a sperm and ovum together. Marquis rejects each of these candidates, and gives more detailed argument against the fourth possibility, as it is the most plausible.

Marquis argues that at the time of conception there are millions of sperm and one ovum, and so millions of combinations of any given sperm and the ovum. However, there is no actual combination of sperm and ovum just yet, only possible combinations. A possible combination of sperm and ovum cannot be the subject of harm. So, the future like ours account does not entail the immorality of contraception use because there is no non-

arbitrarily identifiable subject of the loss in the case of contraception (Marquis, 1989, p. 202).

Alastair Norcross (1990) argues that it does not matter if we do not know which combination of sperm and ovum ends up being the actual combination for successful conception because what matters is the use of contraception does deny conception and therefore must deny some combination of sperm and ovum a future like ours. Thus, there is some subject of loss in the case of contraception, namely some combination of sperm and ovum.

Against Norcross' argument, it may be objected that there needs to be a thing that is the subject of loss in the case of contraception and some combination of sperm and ovum is not a thing. But why think this? Certainly, the sperm and ovum separately are each things, but if the combination of the two is not, then both the sperm and the ovum separately could be said to be the subjects of loss in the case of contraception because contraception deprives each one of a future like ours (Norcross, 1990, p. 272). Despite being two things, each has a shared future that each is deprived of when conception is prevented. So, if the combination of a sperm and ovum is a thing, then contraception deprives it of a future like ours. But, if it is not a thing, and a sperm and ovum separately are things, then contraception deprives each of a valuable future like ours. In either case, contraception deprives something of a future like ours. So, Marquis' account entails that contraception is wrong. But contraception is not wrong, so Marquis' account fails.

There are further issues with Marquis' account besides Identity Objections and Contraception Objections. An anti-abortion position based on Marquis' future like ours account of the wrongness of killing depends on both, that Marquis' account is the correct

account of what makes killing an adult human wrong, and abortion deprives a fetus of a valuable future like ours. However, both of these claims are false.

It is doubtful the future like ours account is the correct account of what makes killing an adult human wrong. If it were the correct account, it would follow that any case of killing adult humans that did not deprive them of a valuable future like ours would not be wrong. But there are cases of killing adult humans that do not deprive them of a valuable future like ours that are still wrong. Consider cases of elderly or terminally ill people. These people do not have a valuable future like ours because they do not have much longer to live. If a future like ours account is true, then it would not be wrong to indiscriminately kill elderly or terminally ill people because doing so would not deprive them of a valuable future like ours, for they cannot be deprived of something they do not have. Indeed, Marquis takes it to be strength of his account that it does not imply the wrongness of active euthanasia because active euthanasia does not deprive the terminally ill of a future like ours (Marquis, 1990, p. 189-190). But the same is true of killing for malicious reasons. Killing those that do not have a future like ours out of malice would also be permissible on Marquis' account for the same reasons Marquis takes it to not imply the wrongness of active euthanasia. But it is wrong to indiscriminately or maliciously kill the elderly or the terminally ill, even if they will die on their own soon anyway. So, a future like ours account must be false.

Still, even if fetuses do have a valuable future like ours and depriving a thing of a valuable future like ours is wrong, it is not clear that abortion deprives a fetus of a valuable future like ours. Whether something has a valuable future like ours depends upon what its future is. We usually cannot know a thing's future with certainty, but only make predictions

about it. What we take to be a thing's future is what we expect for it. Assuming normal fetuses have valuable futures like ours, we may reasonably expect that normal fetuses will gestate and be born into beings like us. However, these expectations must change if we learn that the pregnant person has made plans to have an abortion. Upon once a plan is made to have an abortion, our expectations about the fetus' future must be adjusted because if we expect that the pregnant person will have an abortion then we must expect that the fetus will die before term. If it will die before term, then it does not have a valuable future like ours. When the abortion is performed, the fetus will not be deprived of a valuable future like ours because by that time the fetus no longer has a valuable future like ours. All it takes for an abortion to be a planned one is for it to be one a pregnant person intentionally pursued. Virtually all abortions are planned, meaning virtually all abortions do not deprive a fetus of a valuable future like ours because no fetuses have a valuable future like ours when an abortion is performed. Therefore, even if normal fetuses do have a valuable future like ours and depriving them of it is wrong, virtually no abortion deprives a fetus of a valuable future like ours, and so is not wrong.

A proponent of a future like ours account may object that planned abortions are wrong because they still deprive a fetus of a valuable future like ours. This is because if we think that making plans changes a fetus' future, then making plans that would change a fetus' future from a valuable future like ours to a contrary future would deprive them of that valuable future like ours, and so is wrong. However, this would only mean that it is wrong to plan to have an abortion rather than having the abortion itself, if the making of the plan to have an abortion deprives the fetus of a future like ours. Following through with a plan to have an abortion would not be wrong because it would not deprive a fetus of a

valuable future like ours because the fetus would no longer have a valuable future like ours at the time the abortion is performed. It would be the act of making the plan that deprives the fetus of a future like ours rather than the act of abortion. Presumably, planned abortions are wrong on the anti-abortion position because they are *abortions*, not because they are planned.

While Marquis' argument faces serious problems, its approach to the ethics of abortion is interesting because it avoids the question of personhood. Even if Marquis' argument fails, the following question would still need to be answered: Could it be that even if a fetus is not a person, and therefore lacks any of the morally relevant features of personhood, abortion is still immoral?

An affirmative answer to this question comes from Perry Hendricks (2019a; 2019b), who advances "The Impairment Argument", for the immorality of abortion. Hendricks argues abortion is immoral even if the fetus is not a person. To advance this argument, Hendricks posits "The Impairment Principle".

The Impairment Principle: If it is immoral to impair an organism O to the nth degree, then, *ceteris paribus*, it is immoral to impair O to n+1 degree. (Hendricks, 2019a, p. 247)

Employing this principle, Hendricks advances the impairment argument thusly:

The Impairment Argument:

- P1. Causing an organism O to have FAS (Fetal Alcohol Syndrome) is immoral.
- P2. If causing an Organism to have FAS is immoral then, *ceteris paribus*, killing O is wrong.
- C1. Therefore, Killing O is wrong.

P3. If one aborts O, then she kills O.

C2. Therefore, to abort O is Immoral. (Hendricks, 2019a, p. 248)

Hendricks takes himself to have established the conclusion that abortion is immoral even if the fetus is not a person and therefore lacks any of the morally relevant features of persons.

This argument has received critical responses from philosophers, including Bruce P. Blackshaw (2019b; 2020), Claire Pickard (2020), Dustin Crummett (2020), and Joonas Räsänen (2020). Blackshaw criticizes Hendricks' argument in several ways, including by arguing it is dubious that killing a fetus impairs it in the same way that FAS does, that Hendrick's "smuggles in the conclusion that abortion is immoral" (Blackshaw, 2019b, p. 724) into the argument's premises, and that when we consider what makes it the case that giving a fetus FAS is wrong, we find that wrong-making feature is not present in the case of abortion. Pickard takes issue with P2, arguing that the *ceteris paribus* clause is not met. Crummett argues that the impairment argument will not be persuasive to those who accept Judith Jarvis Thomson's (1971) argument for the permissibility of abortion because on a Thomson's view abortion is permissible even if it is taken for granted that a fetus is a person. If abortion is permissible despite a fetus being a person, then assuming a fetus is not a person is too great a concession to make if one intends to argue abortion is impermissible. Räsänen argues there are goods achieved by having an abortion that are not achieved by giving a fetus FAS, thus further highlighting the normative disparity between abortion and giving a fetus FAS.

Hendricks' response to Blackshaw's criticisms is of particular interest. Hendricks responds to Blackshaw's criticisms by claiming that the impairment argument is not

question-begging, an aborted fetus does count as impaired, and while those who accept an Interest Theory of rights can avoid the impairment argument, this objection is not available to many, as Interest Theory is a contentious abstract philosophical view (Hendricks 2019b).

Because aborting a fetus is a greater impairment to a fetus than is giving it FAS, and giving it FAS is wrong, abortion must also be wrong. This is the case, if the impairment principle is true. But why accept the impairment principle? Consider what makes it the case giving a fetus FAS is wrong. Both Hendricks and Blackshaw provide the same answer. Hendricks locates the wrongness of impairing a fetus by giving it FAS in the harms it would have to the future born child. Hendricks states:

But why is giving a fetus FAS immoral? To get the answer to this question, we need only look at the effects of FAS. Let us consider the case of Angela above. In that case, Angela's mother acted immorally because she performed an action that made it such that her daughter is (among other things) unable to count and unable to tell time at an age that she should be able to. That is, Angela's mother wronged her by impairing her daughter's ability to develop properly. (Hendricks, 2019a, pp. 245-246)

It is clear Hendricks takes the wrong of giving a fetus FAS to be constituted by the harms to the development of the future child. Blackshaw says the same. With reference to Jeff McMahan (2006), Blackshaw responds to Hendricks, stating,

For McMahan, the consideration of an individual's future interests are a crucial requirement of morality, and because a fetus suffering FAS has had its future interests damaged, giving a fetus FAS is immoral. In fact Hendricks seems to agree tacitly that the future interests of the child (which

he calls Angela) are the underlying issue, stating that ‘Angela's mother acted immorally because she performed an action that made it such that her daughter is (among other things) unable to count and unable to tell time at an age that she should be able to. (Blackshaw, 2019b, p. 724)

Both Hendricks and Blackshaw recognize the harm to the future born child’s development as what constitutes the wrong of impairing a fetus by giving it FAS. The wrong-making feature of giving a fetus FAS is the harms to the future child’s development. However, if this is the case then abortion is dis-analogous with giving a fetus FAS. The dis-analogy is that abortion does not have the same wrong-making feature as giving a fetus FAS. In the case of abortion there are no harms to a future child’s development as no future child will ever be born (McMahan, 2006; Blackshaw, 2019b).

We can and should distinguish between impairment and wrongdoing. To impair a thing does not imply wronging that thing. The question is whether an instance of impairment also constitutes a wrong. If some impairment counts as a wrong, then it must have some wrong-making feature. The act of giving a fetus FAS has such a feature, namely harm to the future child. But abortion does not have this wrong-making feature, nor does Hendricks specify an alternative wrong-making feature. If the wrong of impairment of the fetus is constituted by the future effects on the future child, the absence of these effects from the act of abortion should mean the abortion is not wrong. So, we have a situation where there is an action (abortion) that is a greater impairment to an organism than is another action (giving a fetus FAS), yet the former lacks the relevant wrong-making feature. Because it lacks the relevant wrong-making feature it is not wrong. Abortion then appears to be a counterexample to the impairment principle because it is a greater

impairment to a fetus than is giving a fetus FAS but unlike giving a fetus FAS is not wrong. Of course, abortion may be wrong if it has a different wrong-making feature than giving a fetus FAS does, but this would still mean the two acts are dis-analogous. Because causing harm to a future child is what makes giving a fetus FAS wrong, but not what would make abortion wrong, abortion is dis-analogous with giving a fetus FAS, meaning it is not the case that if giving a fetus FAS is wrong then killing it via abortion is also wrong.

Further, in the case of giving a fetus FAS, the object of moral concern is the future born child that will suffer the harmful effects of FAS. Thus, it is the future born child that would suffer the harmful effects of FAS that is ultimately the thing of independent moral worth. The wrongness of giving a fetus FAS can thus be explained without needing to posit any independent moral worth of the fetus.

Consider the following thought experiment: Imagine a pregnant person discovers that the fetus occupying their body has some abnormality that will cause it to be miscarried within the week. Once discovered, nothing can be done to stop the miscarriage from occurring. Given this miscarriage is certain to occur, would it be immoral for the pregnant woman, upon becoming aware of the situation, to begin consuming alcohol, even if the alcohol in her bloodstream would have an adverse effect on the fetus until it dies in a week? No, it would not be immoral for the pregnant person to consume alcohol even if doing so adversely affected the fetus because the fact that the fetus will die in a week means there will not be any future child to suffer the harms of FAS.

In response to Blackshaw's objection, Hendricks claims that because Blackshaw is appealing to the future interests of the child, and therefore appears to be operating on an Interest Theory of rights, his objection is not a serious concession (Hendricks, 2019b, p.

969). Regarding Blackshaw's objection that aborting a fetus means there is no future child with interests at stake, and therefore an absence of the relevant wrong-making feature, Hendricks' states the following:

Blackshaw's point is true enough: if one accepts interest theory, then one can avoid the impairment argument. However, I already conceded in my article that interest theorists can circumvent the conclusion of the impairment argument; Blackshaw's point is not new. This is not a major concession, however, because interest theory, like all other abstract philosophical theories is contrived and contentious, and does not appear to be terribly popular. Hence this escape route will be available to only a select few. (Hendricks, 2019b, p. 969)

While Hendricks states this is not a serious concession, his attempts to convince are insubstantial as his response does not amount to a defence of his argument. Supposedly, only those who accept an Interest Theory of rights have access to the objection discussed above against the impairment argument. Hendricks' response does not provide reasons to think an Interest theory is false, nor shows that Blackshaw's objection is mistaken. Instead, Hendricks states that because the background view from which the objection arises is an abstract philosophical theory, and an allegedly unpopular one at that, it simply does not count as a serious objection.

Hendricks indeed discusses the objection Blackshaw raises in his original paper, so he is right that Blackshaw is not raising anything new. But it is not a problem for Blackshaw to raise this objection again because Hendricks has not adequately responded to it. Hendricks has simply stated that because Blackshaw's objection relies on a contentious

philosophical theory, the objection may be ignored, as it will only be available to those who accept an Interest Theory. But Hendricks claims, Interest Theory, “like all other abstract philosophical theories is contrived and contentious” (Hendricks, 2019b, p. 969). If all abstract philosophical theories are contentious, and this is sufficient for any objection to count as irrelevant, then no objections can ever be successful against any philosophical argument. This is absurd. The contentiousness of Interest Theory does not matter for the objection raised against the impairment argument.

Also, whether an Interest Theory is unpopular is irrelevant. Presumably, whether an Interest Theory of rights is correct is independent of its popularity. So, it does not matter how many or how few philosophers accept an Interest Theory of rights. It does not matter for the force of a philosophical objection how many philosophers would raise it. A forceful objection is a forceful objection independently of the popularity of the background theory from which it comes. If the impairment argument is to succeed, Interest Theory must be refuted. But Hendricks’ provide no compelling arguments or independent reasons for why Interest Theory is false. This shortcoming means neither the impairment principle nor the impairment argument are adequately defended. What matters is if an Interest Theory were true then there is a problem for the impairment argument. And because an Interest Theory is plausible, and no argument is given as to why it is false, there is a problem for the impairment argument. Therefore, it is not the case this objection is “available only to a select few” (Hendricks, 2019b, p. 969). The function of philosophical objections is to be challenges or counterarguments against other ideas and arguments. A philosophical objection is available to anyone, anytime. Whether the speaker themselves endorses the

necessary background view is irrelevant, for philosophical objections are directed at ideas and arguments, not at people.

Additionally, because Hendricks claims the wrong of giving a fetus FAS is constituted by the harms to the future born child (Hendricks, 2019a, pp. 245-246), Hendricks is operating on an Interest Theory. This is an internal inconsistency in Hendricks' defence. Hendricks admits, if an Interest Theory is true, then one can avoid the impairment argument. If the wrong of giving a fetus FAS is constituted by harm to the future born child, then an Interest Theory is true. So, an Interest Theory is true. Therefore, one can avoid the impairment argument. Due to the disparity between giving a fetus FAS and abortion, and the internal inconsistency of claiming that giving a fetus FAS is constituted by the harms to the future born child and a successful defence of the impairment argument depending on this claim being false, it is clear that Hendricks' defence of the impairment argument is inadequate.

I have explained why the defence of the impairment argument is inadequate. Now, I discuss further problems with the impairment argument.

Hendricks' discussion begins with an explanation of why impairing a fetus with FAS is wrong. As discussed, the wrongness is constituted by the harm of FAS on the future born child. Because there is no future child to be harmed in the case of abortion, the act of abortion is dis-analogous with the act of giving a fetus FAS, as the relevant wrong-making feature is not present in the case of abortion. Central to the question of the wrongness of abortion is what its wrong-making feature is, if indeed abortion is immoral. If we accept the impairment argument, we arrive at the conclusion that abortion is immoral but are left

with no explanation of what constitutes its wrongness and no explanation of its wrong-making feature.

It is important to note that if one can provide an answer to the question of what abortion's wrongness consists of then the impairment argument will be unnecessary. If one could already explain the wrong-making feature of abortion, there would be no need to try and draw an analogy with giving a fetus FAS, for there would be independent reason to think abortion is immoral. To defend the impairment argument or some similar argument, one needs to provide some non-question-begging explanation for why a certain sort of impairment of the fetus is wrong and how that wrongness persists in the case of abortion. As mentioned, it is a mistake to think that an action that more greatly impairs an organism than some other action that we already take to be wrong implies that an action of greater impairment is also at least as wrong. This is because we still need to explain what makes that impairment wrong. If an instance of a greater impairment does not have the same wrong-making feature as an instance of some lesser impairment that is wrong, then the impairment principle is not met. So, there needs to be a better explanation of the wrong-making feature of abortion, but such an explanation is not to be found in Hendricks' defence.

What Hendricks does discuss is the idea that it may still be wrong to give a fetus FAS even if there are not future harms to a future child. The idea is a pregnant person who gives their fetus FAS, where doing so somehow does not lead to harm to a future child, would still have done something wrong (Hendricks, 2019a, p. 249). This is because the act of giving a fetus FAS is immoral and does not become permissible at some arbitrary time in the future, such as when the fetus is aborted. Hendricks wants to say that the action is wrong

once it has been performed and its moral status does not change at some time in the future. However, this creates an inconsistency within Hendricks' defence. Earlier, Hendricks' stated that the wrongness of giving a fetus FAS consists of the harmful effects FAS has for the born child's development. Indeed, Hendricks stated that to see the wrong of giving a fetus FAS "we need *only* [emphasis added] look to the harmful effects of FAS" (Hendricks, 2019a, p. 245), referring to the harmful effects on the future child's development. But later Hendricks seems to be saying that giving a fetus FAS is wrong independently of the future harmful effects on the future child, that giving a fetus FAS is wrong regardless of whether there will be a future child to suffer from future harms. This is an inconsistency.

If the wrongness of FAS is constituted independently of any harmful effects on a future child, then it must be constituted by impairment to the fetus where the fetus is a thing of independent moral worth. If this is the case, then an explanation of what the independent morally relevant features of a fetus are that constitute for it a greater moral status is required, if there are any such features at all. It needs to be shown that the fetus all on its own has the sort of moral worth and significance that makes killing it via abortion is immoral. The presupposition that fetuses are not persons rules out appeals to any of the traditional morally relevant features of persons on any conception of personhood. If the wrongness of impairing a fetus by giving it FAS is constituted independently of harm to a future child, then the fetus must have independent moral worth (such as a right to life not based on personhood) that makes killing it wrong. If a fetus has the relevant sort of independent moral significance, then abortion is wrong. If a fetus does not have the relevant sort of independent moral significance, then it is not clear that has the relevant sort of moral worth, meaning abortion would be morally permissible. So, if the wrongness of impairing

a fetus by giving it FAS is constituted independently of harm to a future child, either abortion is wrong for reasons other than that it is a greater impairment than giving a fetus FAS, meaning P2 of the impairment argument is false, or abortion is not wrong, meaning the impairment argument's conclusion is false. Either way, the impairment argument is unsound.

An attempt to defend the impairment argument comes from an appeal to the "Modified Impairment Principle" which states, "if it is immoral to impair an organism O to the nth degree for reason R, then, provided R continues to hold (or is present), it is immoral to impair O to the n+1 degree" (Blackshaw & Hendricks, 2021a, p. 516). However, attempts to strengthen the impairment argument by modifying the impairment principle fail for the same reasons the original argument does. This is because giving a fetus FAS is wrong because it leads to the harm that a future child would suffer is not a reason that continues to hold or is present in the case of abortion. Thus, the modified impairment principle is not met.

To show the modified impairment principle is met, it has been contended the reason that giving a fetus FAS is wrong is not that it causes harm to the future born child, but rather that it deprives the fetus of a valuable future like ours. This line of defense is directly inspired by Marquis' future like ours account of the wrongness of killing that was previously discussed in this chapter. As mentioned previously, whether a fetus has a valuable future like ours depends upon what its future is. If what makes giving a fetus FAS wrong is that doing so would deprive a fetus of a valuable future like ours, then any fetus whose future is not one like ours cannot be deprived of a future like ours. Because a fetus may have a future that is not like ours (such as a future where it has been aborted), giving

a fetus FAS may not deprive it of a valuable future like ours. It has been stated that giving a fetus FAS must be wrong for the reason that it deprives a fetus of a valuable future like ours because “there are no other plausible explanations of its wrongness” (Blackshaw & Hendricks, 2021, p. 517). But this is false. The wrongness of giving a fetus FAS is straightforwardly explained by the fact it causes the harm a future child suffers from the effects of FAS. In cases where there will be no future born child, giving a fetus FAS would not be wrong as it would then not be an action that causes harm to a future child.

But, if giving a fetus FAS will not lead to future harm that a future child will suffer, such as in cases where one plans to have an abortion, then the reason for its wrongness is absent. In cases of planned abortion, there will be no causal connection between an act of consuming alcohol during pregnancy and harm to a future child because having an abortion eliminate the possibility of a future born child. This holds for all cases of what Alex Gillham (2021a) calls ‘never-born fetuses’. Never-born fetuses are fetuses that for one reason or another will not be born. Because they will not be born, there is no possibility of them having a future like ours, which means they cannot be deprived of a future like ours. Fetuses that are to be aborted are instances of never-born fetuses. Therefore, the reason for the wrongness of giving a fetus FAS at the time of doing so does not continue to hold and is not present in cases of planned abortion. Neither the deprivation of a valuable future like ours nor the causal connection between consuming alcohol during pregnancy and harm to a future child are reasons for the wrongness of giving a fetus FAS that continue to hold or are present in the case of abortion. This dis-analogy between giving a fetus FAS and abortion means that the modified impairment principle is not met, and the strengthened version of the impairment argument which employs it fails.

Furthermore, the appeal to the modified impairment principle leads to a redundancy. The purpose claiming that deprivation of a valuable future like ours is the reason giving a fetus FAS is wrong is to try and show that it is a reason that continues to hold or is present in cases of abortion. Even if deprivation of a future like ours was a reason that continued to hold or was present in cases of abortion and abortion happened to be wrong, deprivation of a future like ours may not necessarily be the reason for the wrongness of abortion. That a reason continues to hold across a pair of wrong actions does not imply that it what constitutes the wrongness of either action. There may be a different reason present that constitutes the wrongness of abortion besides depriving a fetus of a future like ours. If depriving a fetus of a future like ours is what makes abortion wrong, then it is unnecessary to appeal to abortion being a greater impairment to a fetus than giving it FAS.

Blackshaw and Hendricks defend the use of Marquis' notion of a future like ours in their defence of the impairment argument by claiming that the impairment argument is not wed to the future like ours criterion, but that it is instead one possible explanation of the wrongness of impairment (Blackshaw & Hendricks, 2021b, p. 641). In response to the case of planned abortions, they argue that we cannot know whether a fetus does not have a future like ours because we cannot know at the time of impairment whether it will be aborted. They claim this is because plans can change, people can change their minds, and there can be changes in people's circumstances. But none of this means that the fetus has a future like ours. All that could be inferred is that we do not know if it has a future like ours. Blackshaw and Hendricks attempt to defend the claim that fetuses do have a future like ours at the time of impairment by appealing to Mary Clayton Coleman's (2013) 'for all we know' or 'FAWK' revision to Marquis' account. They claim that for all we know a fetus

at the time of impairment does have a future like ours. That plans and circumstances can change is not reason to think that a fetus has a future like ours. For all we know, plans might or might not change. If one plans to have an abortion, we have no reason to think that their plans will or will not change without being in a better position to know about them and their circumstances. Because we do not know whether a planned abortion will go through or not ahead of time, we have only two options: first, we can form a judgment based on the available evidence, namely that an abortion has been planned, and predict accordingly. Second, we can recognize that plans might or might not change and thus suspend belief about whether the fetus has a future like ours, because we cannot predict the future. In either case, it cannot be concluded that fetuses have a future like ours. So, in cases of planned abortion, for all we know, a fetus does not have a future like ours, or we must suspend judgement about whether it does. Either way, it cannot be concluded that a fetus has a future like ours.

Because the argumentative strategy is to draw an analogy between abortion and some other action that is understood to be taken as assuredly wrong, a successful version of the impairment argument will have to draw an analogy between abortion and some wrong action where the wrong-making feature of that other action is also the wrong-making feature of abortion. As I have shown, neither the original version of the impairment argument nor its modified version successfully does this. If it is the case that giving a fetus FAS is wrong not because of the harms to a future born child but because it deprives a fetus of a future like ours and this is a reason that continues to hold or is present in cases of abortion and makes abortion wrong, then the impairment argument is simply a retreat to Marquis' original future like ours argument. Gillham (2021b) has argued that it is a

restatement of Marquis' original future like ours argument, to which Blackshaw (2021) has objected there are two main differences. First, the impairment argument focuses on degrees of impairment to argue abortion is immoral whereas Marquis' original argument focuses on a future like ours. Second, Marquis used the notion of a future like ours for an account of *killing*, whereas the version of the impairment argument utilizing the modified impairment principle appeals to a future like ours for an account of *impairment*. But his response does not help. It is true that Marquis' account is one of the wrongness of killing, but on his account, it is deprivation of a future like ours that makes killing wrong, meaning that any action, whether it is an instance of killing, would be wrong if it deprived a thing of a future like ours. This means that if a thing is deprived of a future like ours by some act that impairs it but does not kill it, then that act would be wrong. So, it does not matter that the modified impairment argument depends on an account of the wrongness of impairment because the criterion is the same as Marquis' account of the wrongness of killing.

While the version of the impairment argument utilizing the modified impairment principle may not be an exact restatement of Marquis' original argument, it still depends upon Marquis' original argument in an important way. In both the case of Marquis' account of killing and Blackshaw and Hendricks' account of impairment, deprivation of a future like ours is meant to be the criterion for whether an action is wrong. The trouble is that by doubling down on the future like ours criterion, Blackshaw and Hendricks' defence of the impairment argument becomes weaker as it ties itself to a view that already faces significant objections. But, if the impairment argument is not wed to the notion of a future like ours but is only one possible explanation to the wrongness of impairment, as Blackshaw and Hendricks' state, then it needs to be shown that it is the correct explanation

for the impairment argument to be successful. Merely being a possible explanation is not sufficient for it to mount a successful defence of the impairment argument. Blackshaw and Hendricks do not provide reason to think that it is the correct explanation rather than merely a possible explanation. And because the correct explanation for the wrongness of impairing a fetus by giving it FAS is that it causes harm to the future born child and would not be wrong in the absence of this harm, there cannot be a successful defence of the impairment argument.

I have argued the impairment argument for the immorality of abortion fails. It is not adequately defended from the Interest Theory objection and explain neither what the wrong-making feature of abortion is nor what the morally relevant features of fetuses are. Additionally, Hendricks is inconsistent in his treatment of what constitutes the wrongness of giving a fetus FAS. Because the wrong of giving a fetus FAS is explained by the harmful effects on the future child, giving a fetus FAS is dis-analogous with abortion. This shows that the impairment principle, even when modified, cannot be met. If impairing a fetus is wrong independently of any harm to future children, then either a fetus is a thing of independent moral significance and abortion is wrong because it kills a fetus where a fetus a thing of independent moral significance and not because it causes greater impairment than giving a fetus FAS, or a fetus is not a thing of independent moral significance and abortion is not immoral. Either way, the impairment argument is unsound. No explanation about what the relevant independent moral worth of a fetus is provided to show why in the absence of harm to a future child impairing a fetus is wrong. If abortion is wrong because it impairs a fetus and impairing a fetus is wrong because doing so deprives a fetus of a valuable future like ours, then the impairment argument depends upon fetuses having a

future like ours, which is a view that already faces significant problems and objections. For all these reasons, the impairment argument fails, and it thus cannot be concluded that abortion is immoral.

This chapter and the last focused on critiquing two distinct arguments for the anti-abortion position. While both are for the conclusion that abortion is morally impermissible, they take opposite approaches to the question, with one depending on a particular account of personhood that would include fetuses, while the other jettisons fetal personhood and instead appeals to alleged commensurability between the wrongness of fetal impairment and abortion. Having shown that both arguments fail, it is now clear that my argument from the right to choose parenthood should be the favoured solution to the problem of the moral analogy between abortion and infanticide over anti-abortion alternatives.

CONCLUSION

I have accomplished the following in this thesis: I have presented the problem of analogies between abortion and infanticide to show how traditional accounts of the permissibility of abortion imply the permissibility of infanticide. Upon presenting this problem, I argue that the problem can be solved if greater attention is paid to the moral significance and nature of parenthood as it relates to the moral question of abortion. By looking at abortion through the lens of parenthood, an account of the moral permissibility of abortion can be given that also explains the moral impermissibility of a parent committing the infanticide of their newborn. This is possible due to the moral nature of parenthood as a social relationship that is entangled with moral responsibilities distinct from the relationship a pregnant person has with any fetus they carry.

The analysis in chapter 1 outlines how Thomson's argument ought to be understood. Recognizing the right to life as a negative right and recognizing that Thomson's argument implies the permissibility of all abortions independently of the conditions or circumstances of the pregnancy helps to see why the problem of the analogy between abortion and infanticide exists for those who accept Thomson's position. From this, I construct the argument for the permissibility of a parent committing the infanticide of their newborn on the grounds that deprivation of support leading to death does not deprive a newborn of anything it has a right to in virtue of having a right to life. This is a problematic consequence for those who hold that abortion is permissible but infanticide is not.

The argument in chapter 2 shows how this problem is solved. Arguing from the right to choose parenthood allows for an argument that abortion is permissible but does not

imply that a parent committing the infanticide of their newborn is permissible. I explained that parenthood is best understood as a social relationship entangled with moral responsibilities. This makes parenthood a moral relationship. The right to choose parenthood is the right to the autonomy to make the choices and decisions relevant to the process of undertaking the project of parenthood and becoming a parent where this right includes the right to make choices and decisions concerning beginning, continuing, or terminating the process of undertaking parenthood and becoming a parent. This right includes the right to abortion. However, parenthood is entangled with moral responsibilities which include responsibilities to support the well-being of one's newborn. These responsibilities preclude the permissibility of infanticide via deprivation of what the newborn needs to survive.

Furthermore, participation in the parent-child relationship has consequences for the moral status of fetuses and newborns as related to the disanalogy between abortion and infanticide. Because the parent-child relationship is one that begins at birth at the earliest, the relationship a pregnant person has with their fetus is not a parent-child relationship. Because the parent-child relationship is entangled with moral responsibilities, and children are the moral patients of parental responsibilities, newborns have a distinct moral status from fetuses because newborns rather than fetuses are the proper patients of parental responsibilities. This shows that newborns have a moral status that makes it wrong for a parent to commit infanticide against them in virtue of the relationship between them. This does not hold in the case of a pregnant person and any fetus they carry.

Having addressed objections to my argument from parenthood, I turned attention to anti-abortion arguments and showed that a dominant view of fetal personhood employed

to establish an anti-abortion position is challenged by a novel case of complicated multifetal pregnancy. The substance view anti-abortion position faces a dilemma. By its own lights, it must maintain that any abortion is impermissible. However, because it takes the life of any fetus to be intrinsically valuable, it must also maintain that allowing any fetus to die is also wrong. Cases of complicated multifetal pregnancy show that the substance view faces a dilemma of either performing a selective abortion to save one fetus in a multifetal pregnancy, or not performing any abortion and letting all fetuses die. I showed that proponents of the substance view anti-abortion position cannot appeal to a morally relevant distinction between killing and letting die, and so cannot claim that it would be permissible to let all fetuses die. So, the substance view faces a dilemma that it cannot escape, making for strong grounds to reject the view.

The other anti-abortion argument I examined is the novel impairment argument which sought to show that abortion is immoral while assuming that the fetus is not a person. I showed that this argument depends on the impairment principle, but this principle is false. As shown, abortion is in fact a counterexample to the impairment principle, for abortion is a greater impairment to a fetus than giving that fetus fetal alcohol syndrome, but the impairment argument cannot explain what the wrong-making feature of abortion is. While giving a fetus fetal alcohol syndrome is wrong because of the harms to the development of a future child, there is no future child to ever suffer harms in the case of abortion. Thus, abortion and giving a fetus fetal alcohol syndrome are incommensurate. Thus, this novel attempt to show abortion is wrong without holding that the fetus is a person fails.

The failure of these anti-abortion arguments reduces the plausibility of a possible objection to my argument concerning a solution to the alleged moral analogy between

situations of abortion and infanticide. The moral analogy is particularly problematic for those who take abortion to be permissible but take infanticide to be impermissible. However, if one takes an anti-abortion position, then any purported analogy between abortion and infanticide will not be problematic, for one may consistently claim that both abortion and infanticide are impermissible. But such a response to the analogy depends on it being the case that abortion is wrong. But if the arguments for this conclusion fail, then this is not a defensible way to address the analogy. By showing how certain anti-abortion arguments fail, I bolster my own argument. My argument should be favoured over anti-abortion alternatives as the correct solution to the problematic moral analogy between situations of abortion and infanticide.

I have thus shown that the ethics of abortion is best understood through the lens of the morally significant relationship that is parenthood and that looking at abortion through this lens avoids the problem of an analogy between abortion and infanticide. By heeding the moral significance of the right to choose parenthood, it is shown that abortion is morally permissible while infanticide is not. The ability to maintain that abortion is permissible but infanticide is not is an advantage of my account over traditional accounts of the permissibility of abortion, which cannot maintain the same as easily. Given this advantage, approaches to thinking about the ethics of abortion ought to begin from considerations of the morally significant social relationships and the consequences of creating and maintaining these relationships.

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