THE MORAL STATUS OF THE FETUS

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It appears that the only way that we can deal with the tremendous pain that the moral problem of abortion inflicts on us is to withdraw into hypocrisy. Most of us condemn abortion as being morally repugnant except within very strict regulations, but more than half of the conceptions in our world are aborted.

If the fetus is a human being and abortion is murder, then the murder has been far more horrible and extensive than that found in any war, holocaust, or pogrom. That is perhaps why we feel so uncomfortable with the thought of abortion. On the other hand, the movement to illegalize or restrict abortion is against a background of overwhelming poverty for the majority of the world’s population, a doomsday disappearance of even the most basic resources like air, water, and trees, and a certainty that even at today’s rate the world population will be double the current number in thirty years. What would happen, then, to all the national economies and the capacity of the world to support the human race if, as a moral miracle, all abortion stopped and the rate of population growth suddenly doubled its present rate? When we contemplate these factors we generally wish, although we are too uncertain to express it, that more countries in the world had procreation laws as draconian as those of China.

These decades inflict more pain on us than at any other time in history because until the present times a larger part of the decision over abortion was withdrawn from free will and determined by nature.
Women were submitted to chance for conceiving and begetting, and many varieties of conception and abortion were necessitated by morally sound reasons of health. The new technologies of birth, conception, genetic engineering, contraception, and surrogate motherhood have suddenly put procreation almost totally within the region of free will. Women no longer need to subjugate themselves to the vicissitudes of nature; they have complete control over maternity. But the new technology has done something else; since women don’t need to submit to procreation when nature calls, they are free to give up their traditional subordinate and supportive roles and realize their emergent social equality with men. Without the use of this technology women will probably fail to attain real social equality. For the first time in history, there is a real conflict of rights between women and their children. For the first time we have the technology to control procreation; we must now inquire whether we have the moral justification to use it.

Most arguments in the last century have concluded on the moral unacceptability of abortion, and would not condone apparently economic motivations for population control or for women’s liberation. If economic motivations are morally unacceptable, however, then it would behoove societies which do not condone abortion to at least eliminate the economic pressures which motivate abortion. Society has not created welfare institutions to take care of all the children that the mothers are too destitute to raise. Societies legalize or restrict abortion, but they do not use social wealth to eliminate the poverty and one-sided entrapment of women which motivate abortion.

It is extremely difficult to discern the objective features concerning the humanity and the right of the fetus to live, and separate those features from all the sophistical reasoning which is used to bolster one egotistical position or another. A survey of the literature shows that female writers are preponderantly in favor of the right to abortion, and of course they are part of the group which would personally benefit from the freedom to abort. Most opponents of the right to abortion are men, who would not be personally disadvantaged if abortion were
prohibited. This opposition between male and female essayists perhaps reflects the same logical discrepancy in society. The educated middle classes lead the opposition to abortion, but it is mostly the poor people in the lower classes who bear the greatest burden of antiabortion legislation. People who are in favor of abortion are the ones who stand to bear all the burden of a law prohibiting abortion; people who oppose abortion would not personally incur more responsibility if they won. Abortion is not similar to a normal controversy between supporters and opponents, such as raising a tax, for which both sides would have to bear the outcome equally. Unless the issue of abortion is reformulated so that it does not pose personal threat to any one group, it is unlikely that the argument can be cleansed of sophistry and be rectified in a disinterested moral perspective. Abortion is an authentic moral problem which has extremely serious consequences. It should not be a topic for moral posturing and foregone conclusions.

I. THE CONFLICT OF RIGHTS

Let all trivial cases of abortion be excluded from consideration. By trivial, it is meant that the mother who wants the abortion also wants the baby. She is divided between having and not having the baby, but because of her personal relations, her financial status, or whatever, she is too intimidated to have the baby. In cases like these the mother should have the baby and it should be the remainder of the problem which should be accommodated. The only cases of abortion which necessarily involve serious moral reflection are those in which the mother, for whatever reason, is not in conflict, but is unconditionally repelled at having a baby.

In the non-trivial cases of abortion, holding in abeyance whether her attitude is correct or not, the mother might regard pregnancy and having a baby as a higher-order entertainment. She might see having a baby in the perspective of consumers' rights; one might be glad to acquire a race horse, but no one should be compelled to acquire it
against his will. The expense, gravity, and duration of the responsibility of a baby are too great to coerce any woman, against her will, to make the acquisition. The risk to the baby itself is too great if it is forced upon a disgruntled consumer. Furthermore, since by hypothesis this type of mother does not believe that she is carrying a human, but rather a special sort of tumor, a threatening growth, she can’t feel sympathy for the fetus nor for the circumstances in which she would be forced to give birth. Ideally, any baby should be wanted and loved, for only these conditions give a promise that the child will be brought up in a happy and supportive way.

We must never forget one cogent ground for abortion throughout these deliberations; the abortion of the fetus may forestall all suffering and salvage whatever security or well being preceded the conception. In an objective sense, we must not underestimate the overwhelming misery and poverty that can result to the mother and child from an unwanted pregnancy. We must remember that the onus of the abortion problem has historically always fallen on the women least able to support the social and financial problems of raising a child, and they have lived in societies which did not provide relief for their distress.¹ A woman who absolutely does not want a baby probably has rational grounds, and we must remember that most of those mothers on whom pregnancy is coerced are already impoverished or in some other way seriously disabled. If such a mother believes that her fetus is only a kind of growth with no human quality and she is forced to give up her other plans in life and bear the child in a state of resentment, tremendous misery may result by forcing a woman to produce children that she is unable to raise.

We must then investigate what the respective rights of the fetus are when we cannot assume any kind of profound emotional tie between the mother and the fetus; what are the respective rights of the two people, when the fetus has a right to life, and the mother feels that her right to choose her destiny is profoundly infringed upon?
i. Pertinent Senses of "Right"

The notion of "right" is still too ambiguous. If we say that the mother has a right to liberty or the fetus has a right to life, the argument cannot progress so long as there is no standard acceptance of a particular meaning for "right". It might mean that a person should always be free to do a certain thing without blame or punishment, although other people are free to obstruct the person; in another sense of right, the person should be free to do a certain thing and other people should be forbidden to interfere; in the third sense, other people should be morally obligated to actively help a person in his fulfillment of a certain right. A person in the first sense of right may be free to start a business. In the second sense people may not take an individual's gun if he has a right to own one. In the third sense, the community may be obligated to build a wheel chair ramp for crippled people if they have a right to the use of a certain building. The crux of the problem is whether a being's right to life entails the strongest sense of right, the obligation of other people to help the person fulfill what is protected by his right. If a person has a right to life, exactly in what sense does he have this right under normal conditions?

The essential issue concerning whether a mother has a right to abortion, regardless of whether her reasons are trivial or weighty, is the question of what the meaning of a person’s rights is in relation to another person. Let us assume that the fetus has a right to life. If the fetus has a right to life and abortion would deprive the fetus of life, then the gestation and parturition are prima facie rights of the fetus. Does this mean that other people are thereby obligated to do everything they possibly can to enable the fetus to live, or does it mean that they are simply restrained from killing it? If in this context "right" means merely the liberty in the first sense of a person to do something or attempt to do something, then an abortion would not conflict with the right to life of the fetus. If "right" in this
context conveys the second sense that other people are prohibited from obstructing a person's right to life, then abortion may or may not conflict with the right to life of the fetus; decision on this depends upon the analysis of the moral value of the act/omission distinction and the doctrine of double effect. If "right" means that other people are expressly obligated to help a person, in any way that they can, to achieve the exercise of his right, then performing an abortion would be in moral conflict with the fetus' right to life. More concretely, if the fetus has a right to life and the only way that the fetus can live is to be born by the mother, is the mother obligated to tolerate at least the period of pregnancy, when no other human being in the world could possibly take over the mother's role? This argument is valid only under the third sense of right; if having a right means that other people are strictly obligated to help a person enjoy that right, then the mother is obligated to be a host since that is the unique condition under which the fetus can fulfill its right to life.

ii. The Right to Life in its First Sense: Personal Liberty

One might argue that whereas the fetus has a right to life, that it entails only a right in the sense of noninterference, i.e. to be protected from being killed; on the other hand, it would not endow the fetus with a coercive demand on being given everything he might need in order to be able to live. The mother has a very strong intuition that she does not have an obligation to be the host to the fetus; it is her intuition that she does not have an obligation to help someone in an extraordinary way if she has not voluntarily promised to make a sacrifice for the sake of that person. If the fetus made its appearance without any invitation, and the mother has not volunteered to have or bear the fetus, then she can't reasonably be compelled to sacrifice anything for it. By the very fact that the mother wants the abortion, in the simplest case we can assume that the fetus was uninvited, and the demands made on the mother are not a response to a voluntary promise.

Our conventional wisdom supports the mother's contention that the
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fetus has a right to life, if it has a right to life, only in the first or second sense. If a woman becomes pregnant as a result of rape, conventionally we accept her right to have an abortion. On the other hand, we do not for exactly the same reason think if a woman unwillingly has a baby as a result of rape she has a right to murder her baby. We may morally condone the abandonment of the baby, conceived from rape, but we do not acknowledge that the rape victim therefore has the right to infanticide. This implies that a fetus currently has a right to life in the first or second sense, but a new born baby, which is identical in all aspects with the fetus, has a right to life in the third sense. What is the ground for this logical inconsistency? In our conventional thinking, we do not place moral blame on letting someone die, because it is passive, but we condemn killing because it is active. We apply this principle to abortion when we suppose that killing a baby is murder, because it is active, but we regard abortion as conditionally permissible because it is passive. Abortion may be contended to be passive because it is not actively killing a baby, but rather simply not letting an embryo (i.e. a growth) become a baby. But this conventional distinction is baby-centered; it presupposes what is at issue, namely, that something first becomes a human when it becomes a baby.

This situation is thus far confused because it reflects conventional wisdom. It would be irrational to take the mother's attitude into moral consideration of an abortion in some cases but to dismiss it in others. Allowing the mother to abort who was raped takes the part of the mother's rights, and is based on sympathy with the mother, whereas forbidding a woman to have an abortion who voluntarily had sexual intercourse seems to involve a punitive notion that a woman has to bear the responsibility for the consequences of her actions. Notice that we would disregard the "right of the fetus" when we would approve abortion for a rape victim. In either case, the woman who has an abortion subsequent to rape or the woman who wants an abortion out of simply capricious reasons, the ground for the abortion hinges on the
subjective preferences of the mother. In only one of the two cases do we object on the ground of the right to life of the fetus. This suggests that in approving or disapproving an abortion, we are passing judgment on the morality or the immorality of the way that the woman conceived.

For the sake of logical and moral consistency, one final standard of judgment must be used for both the case of rape and voluntary conception: either the rights of the fetus consistently, or the rights of the mother consistently. The mother’s own choice in the matter must have complete authority in all cases where the fetus and mother are presumed healthy, or her personal choice must have no essential weight in the consideration. Either the moral decision for abortion should be strictly based on the rights of the fetus, or a woman’s right to decide on a pregnancy and her own fate should be uniform, not divided according to cases whose motivations we respect and those whose motivations we do not respect. Either the fetus must be born regardless of the mother’s attitude, or the mother should be entitled to choose an abortion regardless of whether her motives appear morally respectable or not. This does not mean that the rights of the mother or of the fetus may not be taken into consideration, and in a particular case overturn the normal conclusion which the ultimate standard of judgment implies; but what is not permissible, is to freely change the ultimate ground of moral judgment and judge a particular case by different basic rules because we have a preconceived and subjective preference for how decision on a certain case should turn out.

We might suppose that if a woman has sexual relations voluntarily and accidentally becomes pregnant, then she should bear responsibility in the sense of accepting the consequences of giving birth to a child even if it is against her will. Such a policy might seem to suppress the tendency for women to use abortion as a means of birth control. We might, for instance, be inclined to legislate severe restrictions on abortion or birth control devices for teenage girls as repressive measures against casual sexual activity. However, the obverse of such a measure
is, in effect, to punish a teen-age girl who becomes pregnant by means of forcing her to carry the pregnancy. But, contrary to all pretensions, this case disregards the rights of the fetus, as the ultimate moral ground, just as much as the case of rape does.

Such an anti-abortion policy is morally untenable because the interests of another being are so overwhelmingly consequential by comparison to the trivial motive of teaching a girl discipline. Whether a fetus is deprived of life, or if a fetus is brought to birth in the wrong circumstances and has a miserable existence, the price of this action on the fetus is too great to warrant using an abortion policy as a punitive measure against sexually irresponsible women. The distinction our conventional wisdom draws, between permitting an abortion to a woman who has been raped but enforcing childbearing or an unwanted marriage on a woman who voluntarily had sex implies exactly such a moral inconsistency. Presumably the ground against abortion is the right to life of the child. The fetus of a woman who was raped has no moral involvement or responsibility for the circumstances in which it was conceived; it is identical in its rights, if it has rights, with a fetus that resulted from voluntary sex. If the ground for the prohibition on abortion is ultimately the right of the fetus, then a distinction between a rape victim and a conventional conception is a violation of the rights of the fetus.

It is conceivable that a person might be required to undergo extraordinary hardship for the sake of morality even though that person is not more responsible or culpable than others; it is not inconceivable that a woman might be morally obliged to bear a pregnancy, and in large part ruin the general plan of her life, even if she is not culpable, as in the case of rape, if we accept, strictly speaking, that a fetus is a human and has a full right to life. If the ground for the hypothetical immorality of abortion is that the fetus is a human in the full sense, and therefore has a right to life in the third sense, then a woman pregnant by rape would be compelled to bring the baby to birth regardless of her feelings towards the baby. If the fetus has a right to life in the
third sense, then the rape victim should be forbidden to abort just as equally as she is forbidden to commit infanticide.

However, we sympathize with the negative feelings of the mother towards her own pregnancy and we allow the abortion. Regardless of whether the fetus is healthy, or whether or not the birth would endanger the life of the mother, or the utter guiltlessness of the fetus for the circumstances in which it was conceived, in this case we let the fetus be "murdered", if it is murder, simply because of a decision which depends on the mother's subjectivity. If the ground for the immorality of abortion is that it is the murder of an innocent human being, then we should not allow the abortion even in cases such as rape or the mother's medical endangerment.\(^5\)

On the other hand, if a fetus has a right to life only in the much weaker first sense, to the effect that it is not tasteful, but not morally impermissible, to have an abortion, then it would seem unfair to make a moral distinction between a woman who was raped and a woman who voluntarily had sex and wants an abortion for completely capricious reasons. The great exception shown to women who are the victims of rape implies that our assumption about the "right to life" of the fetus has to be a "right" in the weaker sense. The fetus has a right to life either in the sense that it is not reprehensible of the fetus to try to live, or in the sense that other human beings may not obstruct its attempts to live. It would connote, however, that other human beings are not morally compelled to do everything they possibly can to help it to live. In the specific case of abortion, it would imply that it is morally permissible for the mother to have an abortion if the mother intends to do something else and the death of the fetus is a sort of inevitable side-effect that was not the primary object of the mother's desire. For example, if a woman can avoid ostracism, poverty, or ruination of her life-long hopes only by having an abortion, and it is an ineluctable by-product that the fetus should die because of this, then the abortion would be morally irreprehensible.
iii. The Libertarian Argument

The resolution of the conflict of the woman’s right and the fetus’ right by adopting the first sense of ‘right’ might be supported by the libertarian principle of personal autonomy. In accordance with the principle or division of Church and State the problem of abortion must remain unlegislated because of the principle of division of law and morality. We cannot consistently argue that if the fetus is conceived in a specific way, then it is the mother’s feelings that count, and if the fetus is conceived in some other way or if it is born, then it is exclusively the rights of the fetus/baby that count. Since laws which compel a woman to bear a pregnancy ultimately derive from our own personal, subjective value judgments about what are decent and what are indecent reasons for desiring an abortion, we are in effect depriving an individual of her right to have her own value judgments and coercing her to live by the subjective value judgments of other people. Since this violates the right to personal freedom, it should be impermissible to make laws against abortion because the law would usurp the sphere of personal autonomy and morality. Society might discourage and condemn abortion in the strongest terms, and yet leave it up to the conscience of the individual whether or not to perform an abortion. For instance, suicide and sexual perversions are conventionally condemned, but individuals are not legally prohibited from such things. Where there is no absolute consensus about what situations are definitely immoral, such as cases of sexual perversion or pornography or political ideology, we generally consign the case to the libertarian principle of individual freedom of conscience. Since there is no consensus on the morality of aborting a fetus whereas there is absolute consensus on the rights of a woman to be equally protected from severe hardship resulting from sexist exploitation, it appears that the mother’s libertarian right to decide on an abortion outweighs the fetus’ hypothetical right not to be aborted.

For two reasons, abortion is an irreducible exception to the general
rule that moot issues may be consigned to the libertarian principle of individual conscience. First, there seems to be no rough balance between the mother and the fetus. If the fetus is only an organic growth, then the mother has all the rights, not merely a superior balance. If the fetus is human, then it is highly doubtful that the mother's rights can ever approach an equal balance. The fetus' right to life is many times more important than the mother's right to personal freedom, because one person may not be killed so that another person may enjoy greater freedom. Therefore the mother may have a right to personal decision over an abortion only if her personal freedom extends her right to autonomous decision over whether or not the fetus is a human being.

The libertarian principle that people should have freedom to decide for themselves is strictly limited to decisions over conflicting value judgments; it has absolutely no weight in deciding over conflicting objective judgments. It may, morally speaking, be the mother's right to solely decide on what values should count in her decision to abort or beget. It is the quality of her own life that will be affected by having a baby or raising a child, so she has a primary right to make a value judgment over those prospects. Even granting this personal freedom, it would never be the mother's private prerogative to decide whether an entity is human or not. Within the context of liberalism, an individual has a right to decide on his values without the least social interference under the sole limitation that his decisions may not infringe on others. A woman therefore has the perfect right to define her own values for whether she should abort or beget. However, the decision about whether a fetus is a human or not is not axiological. Since a human is not a value, but a natural kind, decision on whether an entity is a human or not is a universal and objective decision, and it can never come within an individual's right to make his own personal decisions. Since one outcome of the decision entails that the fetus is human, the decision whether or not to abort would be automatically qualified by the second libertarian qualification, that an individual's freedom to decide may
never infringe on the equal freedom of others, in this case that of the fetus.

Second, it is impossible for the woman to absorb all responsibility or guilt to herself, and having made a justified decision exclusively within her personal sphere thereby exonerate society; necessarily society bears complicity in her act. Society itself has a direct moral responsibility for abortion, and in this one case the law must make a direct decision on a point of morality. The mother cannot perform an abortion by herself; even if she takes recourse to her right to protect herself, she is dependent on the aid of the physician to help her with the abortion. Similarly to euthanasia, therefore, the first person directly involved cannot take all of the responsibility; it requires the active aid of the community, and therefore the community must share direct responsibility or guilt for the decision that the first person has made. When a doctor assists a woman in an abortion, he is not acting in the capacity of a mere proxy for the woman or as a private individual; since he acts in the official capacity of a licensed physician, at that specific moment he is the representative or proxy for the whole of society. Abortion is not, like suicide, something that may be objectively wrong, but which can be kept out of the authority of law and given up to the moral freedom and discretion of the first person. Abortion requires the participation of society. There is therefore greater pressure on society to make it illegal or at least legally restrict it, because the responsibility or the culpability of the community is directly involved, and at least prior to qualification abortion is immoral. Since we are assuming that abortion is murder, a physician who aborts, albeit at the request of the mother, is committing murder.

iv. The Right to Life in Its Third Sense: Positive Duty

The morality of abortion must stay uniformly centered on the rights of the fetus/baby and not on the rights of the mother. The decision settles ultimately on whether or not the fetus or baby has a quality which endows it with a right to life. If it is some property which
moral characterizes a thing which endows it with the right to life, and if it is only human beings which ever have that specific property which gives them the right to life, then the justifying principle would cut across the conventional distinction between born and unborn. Regardless of how this case is determined, it coerces the recognition that the distinction between fetus and new born baby is morally vacuous.

To determine whether the mother should have an ultimate and utterly arbitrary decision over the abortion of a fetus, or whether the fetus has an absolute right to life regardless of the mother's circumstances, we must first determine what quality it is that gives a paradigmatic human a right to life, and then determine whether the fetus shares in that quality. If such a moral discriminator can be found, however, it is not likely to fall neatly between pregnancy and birth; if it should justify certain cases of abortion, it would also justify certain cases of infanticide. If infanticide is determined to be wrong because it is murder, then any abortion from the point of conception would also be murder, and no abortion under any circumstances would be morally permissible. Since the very start of the argument presupposes the moral neutrality between baby and fetus, if it is morally permissible to abort a fetus it is also morally permissible to commit infanticide. The argument concerning a moral characteristic would necessarily force a continued search for the distinguishing principle for when it is morally permissible to kill a baby and when it is not. In other words, a positive decision against the morality of abortion would preserve the conventional belief that all human beings have a right to life. If, however, the potentiality to become a normal human does not endow the fetus with a right to life, then it would become necessary to formulate a moral principle which distinguishes when a human being has a right to life and when it does not; such a principle would not necessarily conform to the conventional belief, that all human beings have a right to life.

The morality of abortion is unclear partially because the relation of the mother to the fetus is confused. Let us assume, at this point, that
The moral status of the fetus has a right to life. On the other hand, the mother does not want the fetus and has no feeling for the fetus nor emotional conflicts about giving it up. The word "mother" itself prejudices the issue, because the word connotes a person who has special motherly feelings towards the child. Let us hypothesize that the mother is nothing other than a "host"; she has no warmer feelings for her baby than for a cancerous tumor that depends on her for life. It is impossible to use the special feelings of the mother for her baby as a premise for her duties towards it.

The mother-fetus relation is not morally unique because of the affective quality of being a mother, but because the mother's unique relation to the fetus cannot be substituted. If the baby has a right to life, then the mother's duty to bear the pregnancy against her will, on account of the baby's right to life, is exactly the same as the duties any person would have who alone has the power to save a stranger's life, supposing that nobody else can save his life and where the stranger has a right to life.

Interpreted according to the third sense of right, it appears unequivocal that if a fetus is a human in the full sense and therefore has a right to life in the full sense, then the mother is obligated to bear the pregnancy. By this interpretation, the meaning of saying that a fetus' right to life is observed is equivalent to the proposition that all other people should do whatever they possibly can to help the fetus to live. Since the mother is the only person who is able to do whatever is needed, the mother is primarily obligated to bring the fetus to birth.

v. Responsibility for Omission

However, this is not unequivocal, first, because of the conventional ambiguity about duty towards strangers, and second, because the mother's relation to the fetus may not constitute the same moral relation as that between strangers. On the first point, a mother's moral duty to her fetus should be fully on a par with the duty she has to a complete
stranger, and not at all less; however, it cannot be presumed, without further analysis, that a woman has a more special relation of moral duty than there is between two strangers. When the right to life is applied to the relation between two complete strangers, it is not interpreted in the third sense. We do not morally compel people to save the lives of other people, although we prohibit them from directly killing other people. A woman who is compelled to bear a pregnancy on the ground of the right to life is demanded to do more than other people are morally required to do in equivalent circumstances, and so it appears unfair to prohibit women from having abortions because the prohibition is a violation of the right of equals to be treated equally.\textsuperscript{7} If the right to life is to meet the moral criterion of universality, then either the mother must have a right equivalent to that of strangers, and be free to abort the fetus, or a complete stranger must be obligated to save the other’s life.

It is not necessarily the case that a mother must have full permission to abort a fetus in order to equalize her moral obligations with those between strangers, because there are two factors which might justifiably differentiate interpreting the right to life in the second sense for strangers and in the third sense for the mother-fetus relation. What makes a woman’s relation to her fetus different from her moral relation to a stranger is that she has a unique and irreplaceable relation to the fetus, whereas the typical relation between two strangers is not unique and irreplaceable; the unique and irreplaceable position towards her fetus may give the mother a stronger moral duty than is imposed between strangers.\textsuperscript{8} The situation in which one stranger alone is able to save the life of another, and no other person may take his place, is highly atypical. The use of the example of Kitty Genovese is a typical relation between strangers, but it is essentially different from the relation between a mother and her fetus. If the argument for equal treatment is to be valid, then it must be equated with the atypical relation between strangers. Once the equivocation is corrected, however, it appears more likely that moral and legal coercion should be applied to make a
stranger save the life of another stranger, rather than to equalize the moral situation by allowing a mother to kill her fetus. The second factor is that killing someone by not coming to his aid, as in the relation of strangers, is an act of omission; on the other hand, since the fetus is implanted in the mother, the fetus does not die, as in the case of the stranger, as a result of doing nothing; the fetus dies only if the mother undertakes a deliberate act.

What gives the mother a unique moral responsibility towards the life of the fetus, distinguishing it from the moral obligation towards the life of a stranger, is that performing an abortion implies the intentional killing of the fetus. Although a person may drown without a stranger's help, the stranger does not initiate the causal circumstances of the drowning; he merely neglects to intervene in those causal circumstances once they are in process. Putting aside momentarily the question of whether the mother initiates the causal circumstances of the fetus' existence, at least it may be said that she is the observer of causal circumstances that would result in the life of the fetus. The mother must spontaneously interfere in the causal circumstances to prevent the life of the fetus; unlike the relation of neglect between strangers, abortion is a kind of deliberate killing. Under the conclusion that abortion is deliberate killing, would any consideration empower the mother with a right to choose an abortion?

vi. The Morality of Deliberate Killing

It is highly possible that our conventional assumptions obscure the moral truth of such situations in which one human being is in the unique position to save the life of another human being. Since we conventionally make the distinction between killing and letting die, we have a tendency to believe that a person's decision, no matter how capricious, to let someone die, is justified, whereas in the case of killing we make extremely refined distinctions in culpability according to the circumstances. A woman who wants an abortion is similar to a person who watches someone drown, who is uniquely able to save the person's life,
but refrains from saving his life because he doesn’t have the appro-
priate subjective motivation. A drowning person has a right to life, 
but it is not morally compelling for the man to save the drowning 
person’s life on the ground that the drowning person has a right to 
life. A pregnant woman is likewise the only person in the world who 
can preserve the life of the fetus. We would tend to condemn the 
woman who gets an abortion for a capricious reason much more 
strongly than we would condemn a person who does not save a drown-
ing victim because of an equally capricious reason.

Two considerations might justify deliberate killing. The first consi-
deration is that the conventional distinction between killing and letting 
die, which justifies the interpretation of the right to life under the 
second sense for relations between strangers, is morally defective. 
There may be moral reasons which justify special cases of deliberate 
killing, and there may be moral grounds for condemning cases of 
letting die. This consideration would apply to all beings which might 
be considered to have the properties making it wrong to kill a human; 
there may be justified cases for killing humans. The second consi-
deration concerns the ontological status of the fetus, and whether the 
stricture against killing a human can apply to a fetus. The issue of 
abortion involves a conflict of human rights, and the rights involved 
seem to have roughly equal force. The right pertaining to the mother 
may be her right to life, or her right to the use of her body, or simply 
a right to free choice. If the fetus were judged to be nothing more 
than an organic growth, then of course the rights involved would not be 
equally forceful. If the fetus is supposed to have a soul, then even 
in these circumstances the woman would be obligated to bring the 
fetus to birth.

vii. Double Effect

The first consideration is whether the distinction between killing and 
letting die has a valid application to abortion; is it impermissible for 
a woman to have an abortion because it is always and absolutely
morally worse to kill a human than to let a human die? The strongest case for the mother’s right to kill her fetus is that she will die if she brings the fetus to birth. The fetus is dependent on the mother’s body for survival; the mother is dependent on her own body for survival. Not both the mother and the fetus can use the mother’s body to survive; if one of them has it, then the other must die. The mother is then justified to assert a prior right to her own body, first of all because she is identical with that body in a way that the fetus is not, and secondly because she has had prior possession of that body long before the fetus could make a claim on it.\(^{(11)}\) This turn of the argument then forces attention on the rights to the mother’s body that the event of conception alone confers on the fetus. We are assuming first of all that the fetus is a human being in the fullest sense, and therefore has all human rights, including the right to life. We may assume here that, although aborting the fetus is murder, the mother has a right to try to save her own life. It is a traditionally accepted point of morality that, if a person cannot save his own life except by causing the death of another, that he does not have a duty to bring about his own death in order to avoid bringing about the death of the other.\(^{(12)}\) If she can save her own life only by performing the abortion, then she clearly foresees the death of the fetus, but does not intend it. The mother intends one effect, but knows that an effect which she does not desire is an inevitable side effect of her intended effect.\(^{(13)}\)

What essentially changes the balance is that in the case of aborting the fetus, not only the mother, but also the physician and the community have undertaken a deliberate action which induces the death of the fetus. The physician is therefore confronted with the choice between killing the fetus and letting the mother die. Since both people have an equal right to life under the initial assumption, the doctor finds that he must choose between deliberately killing the fetus, which is therefore murder, and letting the mother die against his will from a natural cause. The doctor cannot share with the mother the justi-
fying ground that she is only acting to save her own life; if the doctor, not the mother, performs the abortion, then the situation is no longer analogous to an act of self-defense. If an abortion is performed to save the mother’s life, then the abortion would involve deliberately killing the fetus. Of course this would be a case of double effect, since it is not the death of the fetus that is desired, but the preservation of the life of the mother. However, the death of the fetus in this case is foreseen, and that puts it on an equal footing with the foreseeable death of the mother if she should be forced to undergo childbirth. In the case of abortion the death of the fetus is one hundred percent certain; in the case of bringing to birth the mother’s death is foreseen, but as a prediction it is not perfectly certain. If the mother should in fact die, then even in this case her death is not a result of a deliberate act of the physician and the community, but the result of a natural cause; presumably the physician and the community would use all possible powers to save the life of the mother. Bringing the fetus to birth at the probable expense of the death of the mother is therefore morally more acceptable because in this case no human is actually killing the mother, whereas an act of abortion would require some human to deliberately kill the fetus.

The distinction between killing and letting die is a morally valid distinction in so far as it consistently indicates the distinction between malign and benign intent. At least in the case of therapeutic abortion the killing/letting die and the malign/benign distinctions correctly collate, and the killing/letting die distinction supports the prohibition of abortion. In any case other than self-defense the mother’s counter-claim would be considerably weaker than a claim for protection from murder. The fetus is a human being in the full sense, and killing a human being is morally unacceptable.

II. THE HUMANITY OF THE FETUS

If the fetus is a human in the full sense, the mother may not abort
The moral status of the fetus

The one and only remaining possible permission for abortion devolves upon an argument to the effect that the fetus is non-human. If the fetus is not human in the full sense, then the mother may have the right to an abortion because her right to her own body would then take precedence over any rights of the fetus, even though it involves the participation of the physician.\(^{(15)}\)

The killing/letting die distinction as exemplified in the analogy to the relation between strangers equivocates, and it is not due to sentimental presumptions about the mother’s special relation to her fetus which implies that the mother has a unique moral obligation to save the life of the fetus regardless of the cost to herself. It is likely that in the case of an authentically equivalent situation we would demand that a stranger do everything in his power to save another stranger. There is nevertheless one substantial difference which would imply that a stranger has a greater moral duty than a mother to her fetus: the ontological difference between a paradigmatic human and a fetus. It is not the \textit{relation} between the mother and the fetus by its comparison with the analogous, normal relation of moral duty which can specially characterize the moral value of abortion, but the \textit{ontological status} of the fetus itself.

\textbf{i. Transitive Rights of the Fetus}

The theory that it is moral sense or at least rationality which endows a being with rights best conforms with the given conventional attitude, that a woman does not have any more direct responsibility to the life of her fetus than a passive observer towards a person who is dying. In the present state of affairs, it is not especially difficult for a woman to impetrate an abortion. The possession of moral sense or rationality as a criterion for rights would nicely explain why rights are owed only to human beings and why it is that human rights are specifically human rights and not rights which may be extended to other animals or marginal entities such as fetuses.

By this criterion, the fetus does have an equivocal right not to be
aborted because the mother has rights on the basis of possessing rationality. But only in the sense that it may not be aborted against the mother’s will. The mother, and by transition, the fetus, has a right that it not be aborted, but by the same right the mother also has the right to abort the fetus if she does not want it. Since the fetus has no rights by itself on the basis of moral sense or rationality, it is protected as a ward by the rights of the mother, not by its own rights. By contrast, a stranger possesses rights of his own, and therefore has a greater moral claim on the aid of another stranger than the fetus has on its own mother.

Our normal practices withhold full human status from the fetus and imply that the fetus’ right is borrowed from the mother’s right. We conventionally approve the abortion of a fetus which is severely deformed or retarded, in which case the mother’s right to possession of her body or personal freedom has precedence over the rights that the fetus could be presumed to possess independently. Since the abortion of defective fetuses is a conventionally accepted practice, we do in fact already have a conventional distinction between when the fetus is human and when the fetus is not. If a defective fetus were presumed to be human in the full sense, then we would not permit the abortion of deformed fetuses any more than we permit the killing of severely handicapped people. Our actual practice implies that we make an implicit distinction between the life of the fetus starting at conception, and the inception of the humanity of the fetus, starting at some other moment. If a fetus is at some early stage of development as dissimilar to a human as a deformed fetus, it becomes necessary to find some relevant characteristic which distinguishes the unformed fetus from the deformed fetus. If no morally pertinent characteristic can be found, then we must conclude either that a deformed fetus has an equal right to life or the mother has the right to an abortion even of a normal unformed fetus on the ground that it lacks equally with the deformed fetus the characteristic of humanity. Let us explore what reasons we might have for the distinction in approving the abortion
of an anencephalic fetus prior to birth, the inclination to prohibit the abortion of a normal fetus, and the prohibition of killing an anencephalic baby after birth.

Relinquishing the argument from self-defense, there are two remaining conditions under which abortion or infanticide would be morally thinkable. The first is under the condition that the abortion/infanticide is done purely for the benefit of the fetus/infant and not for the benefit of anyone else, correlative implying that killing the fetus/infant for the benefit of someone else would be murder; the second condition would allow abortion when there is no human subject to be found in the fetus or infant, in which case the decision could be morally based on consideration for the benefit of the only remaining subjectivity, the mother.

ii. Humanity as a Value-Laden Fact

Intuitively we regard all kinds of infanticide as morally outrageous, and we regard abortion as conditionally acceptable even though the reasons for abortion may be the same as those for infanticide. Either our intuition is wrong, and should be reformulated, or there has to be some intrinsic difference in status between a fetus and an infant to justify the difference in moral status. We conventionally believe that a newborn baby has the same right to life as an adult, and we do not believe that we are entitled to kill a newborn baby if under some circumstances its existence conflicts with our own interests. By what possible criterion could a fetus not have a right against an abortion in a way that a baby, having roughly the same qualities, would have a right against infanticide? Most people would intuitively approve of an abortion if the fetus were going to be horribly defective or retarded. If a viable fetus could be born which however had no brain, most people would not object to its abortion; if however a baby were already born which had no brain, the same people would be outraged if it were deliberately allowed to die. Is there some objective distinction in status between a fetus and an infant which would ground a moral
distinction between abortion and infanticide?

In other words, it is definitely not the fact that the fetus is already born, or even that the fetus is definitely human, or definitely the same in all ways as a baby, that gives it a stringent right to life. If abortion of a normal fetus may sometimes be permitted, or the abortion of a deformed fetus may be permitted, then for exactly the same higher-order reason there may be cases in which infanticide may be performed. A moral principle which would justify cases of abortion is likely to justify cases of infanticide, and if infanticide under any conditions whatever is murder, then this restriction would rule out any acceptable moral conditions for abortion as well. It is not birth per se nor humanity per se which endows a right to life, but some moral quality for which humanity or birth may be taken as reliable indicators.

Either there is some definitive quality which adequately distinguishes abortion from infanticide, or there is some distinction which cuts across the fetus-baby distinction and which would make infanticide morally irreprehensible in cases similar to morally irreprehensible cases of abortion.

Part of the controversy on abortion centers on the nonhuman status of the fetus, for a person may feel that there is no serious wrong if something is done to dispose of an entity which has no human features as yet; its non-human status seems to justify abortion. Arguing in opposition to abortion, one might not need to explicitly state any point in the development of the fetus at which it is a human in the full sense and thus is possessed of full human rights. One might start from the premise that a normal, grown human being is fully possessed of the right to life, but one is not compelled to give any ground for this right. Since it is universally and conventionally accepted, one can leave the reason why any human being has this right completely obscure. Notwithstanding its obscurity, it serves to discredit any right to an abortion. If it is primarily accepted that human beings may not be murdered, and one cannot indicate any point in the continuous development of a human being when he is distinctly not human, then
on this ground alone the fetus is endowed with the right to life.\textsuperscript{(22)}

However, this argument quickly turns on itself. Even if one says from the conventional wisdom that all human beings have a right to life and therefore may not be murdered, the ground for this cannot simply be that they are humans. Being a human is an empirical fact; that in itself is not a moral ground for any judgement of value or right.\textsuperscript{(23)} We must presume that there is some special moral trait that all humans have which accounts for their right to life. Presumably this is something that all humans have but which no animals have. Since a position against abortion does not want to implicate that all animals are equally with humans endowed with the right to life, the antiabortionist is compelled to state what this obscure trait is which gives a thing a right to life. It cannot be any trait which all human fetuses have, because in that case it would be morally forbidden to kill any animals, since by and large all higher animals have whatever traits that a fetus could have. The only trait which a fetus has which could give it a priority over animals is some potentiality. This point alone seems to accommodate the conventional distinction we make between the probity of aborting a severely deformed fetus and the depravity of aborting a normal fetus which is however equally unformed. At this point, however, it would be circular to say that fetuses have some obscure potentiality which entitles them to a right to life. We must define exactly what the moral quality is which gives any being, human or not human, grown or unborn, the right to life.

\textbf{iii. Moral Subjectivity}

Starting since Mill, it has been an axiomatic principle in legal philosophy that there can be no such thing as a crime without a victim. If a person does something, and it does not involve harm to anyone else, and does not involve any obvious harm to himself, then there cannot be anything criminal about performing that act.\textsuperscript{(24)} This has widely applied to issues such as homosexuality and prostitution, which produce acts which are traditionally regarded as immoral or sinful and have
been traditionally punishable, but which however don't fulfill the criterion for being criminal acts. If the parties directly involved consent in a mutual act, and neither one is harmed in any ordinary sense, then it seems to be irreprehensible. Of course there may be qualifications; prostitution may still be regulated and punishable, but then it would be punishable only in accordance with violation of public health considerations, not on account of its being sinful. In this manner there are many instances of behavior which we might continue to regard as sinful, or morally reprehensible and which we might be well justified in strongly discouraging, but they are nevertheless acts which we have no right nor authority to forcibly prevent or to punish. We have instances of behavior, then, which may be immoral, but which established law would have no moral authority to interfere with.

Surprisingly, abortion may be one of those instances. A fetus in its early phases certainly cannot have any of the characteristics of personhood. It is not self-conscious, it cannot feel pain nor pleasure, it is not conscious of an outer world, and it has no desires nor plans for the future. A crime has to involve a victim; if no one is harmed by a certain act, then the act cannot be criminal. On the same ground, coercing an unwilling woman to carry a pregnancy would be a case of causing someone harm, since by this viewpoint the woman is a person while the fetus is not, and the woman is refusing the pregnancy to avoid harm to herself. If abortion is criminal, then it must be assumed that the fetus is harmed by the abortion. But in what sense can a fetus be said to be harmed by being killed? It cannot be said to feel pain or pleasure from abortion. It cannot be said to be frustrated, because the fetus as such has no desires and no plans. It has no concept of itself as an individual entity. It cannot in any conventional sense be said to be harmed by abortion; it isn't subjected to pain nor to frustration of its plans. It is not harmed under the criteria by which we could say that a person is harmed.\(^{(25)}\)

One might argue, however, that in one sense the fetus is frustrated, in the sense that it could be said to have desires without knowing that
it has desires.\textsuperscript{(26)} The law provides for paternalistic protection and control of children so that their own interests, as yet unconscious to themselves, will be satisfied; morally, one might feel responsible for securing the desires of another person even when that person doesn't feel the desire. In an analogous sense a fetus indeed cannot have plans nor desires for the future and therefore cannot be frustrated in that sense, but it does nevertheless clearly have the potentiality to develop desires and plans for the future when its consciousness has developed.

Unlike a normal case of paternalism, one may not assume that the interests of the same person are being protected when one protects the the interests of a fetus.\textsuperscript{(27)} A child is the same person as the adult because of a continuity in consciousness. A fetus does not have the same identity with the human it develops into on the basis of identity in consciousness.\textsuperscript{(28)} Speaking of its consciousness implies a real identity between the thing prior to consciousness and the thing having consciousness, but in this context it is possible to argue that it is consciousness alone which sets the criterion for talk of identity over time; this involves an equivocation between identity in the sense of the criteria for the substantial identity of a material thing and identity in the sense of consciousness and personhood, having quite different criteria for what identity in that context is. One might personify a Teddy-bear, but it does not for that reason have authentic personhood. One might personify a fetus as having a personality because it will have a personality, but it may not follow that the fetus is a human. Thus one might point out the indubitable biological self-identity of an embryo to the time that it becomes a paradigmatic human, but as an argument for the right to life of the fetus it fails.\textsuperscript{(29)} Since being human is not per se a moral predicate, it fails to justify the denial of the right to life to animals vis a vis humans. Such an argument would be sufficient only if the moral quality which constitutes the special moral value of being human could be demonstrated to be conterminous with every phase of being human rather than coextensive only with certain phases of being human.\textsuperscript{(30)}
III. THE ARGUMENT FROM ANIMATION

Traditionally in the Christian religion the possession of a soul predates the possession of self consciousness. It is not human consciousness, but the possession of a soul, which endows beings with moral rights. The doctrine of the soul circumvents the necessity of demonstrating that the preconscious fetus has a right to life because of the unity of personal identity it has with the emergent person. Since unity of consciousness is a necessary condition for continuous personal identity, the argument from personal identity fails to imply that the fetus has a right to life. If something can be criminal only if there is a victim, and a fetus does not have self consciousness, then it cannot be a victim in the conventional sense because it does not possess in the indicative mood the qualities which give it the identity of a person. If, however, it possesses a soul, then one might say that an aborted fetus has been wronged because in a sense its plans have been frustrated. Before the fetus has developed a consciousness of any sort, it might be said to have not a desire but a destiny to have a full human life from which it has been frustrated.

What gives a being which would have self consciousness equal status with a being which has self consciousness is that both are endowed with a soul. We can speak of a being whose life has been wasted because we can imagine what that being could have experienced, or done, or become, under better circumstances. When we think of personal tragedy we take into consideration not only what a person’s actual attributes are, but also what attributes he might acquire, or might have had. We would not say that a person who is in a long coma, because he has no consciousness, is at least for that period of time deprived of the right to life, and is not morally protected from murder, because during the time of his coma he has no desires nor plans, and therefore is not in any way frustrated if he dies during that period. W would not say that a full grown human being has a greater right to
The Moral Status of the Fetus

life than a child, because his self consciousness is more developed and because his plans and desires are more elaborate. What distinguishes a fetus is that, unlike a child or an adult, it cannot suffer frustration or harm at any specific moment, because there is as yet no consciousness to register a frustration. If harm is done to a fetus by its abortion, then the notion of harm cannot be tethered to a consciousness feeling the harm at a specific time. If it is the soul which extends the right to life to a being in paranormal circumstances according to which the being could never experience harm in to itself in a real time and place, the success of this argument will depend on its rationality. Its ultimate rationality will depend on which of three interpretations is made of the word "soul": personal substrate, personal identity, or telos.

i. The Soul as Personal Substrate

By definition, a "soul" is not something that can be demonstrated by science, and therefore there is no objective reason for believing that people have souls and there is no objective demonstration that having a soul is what entitles them to human rights in the full sense as human beings who have, in the conventional sense, realized their potentialities. It is probably prudent to point out equally that since there can be no scientific evidence for the existence of a soul, no scientific evidence can disprove the existence of a soul either. The plausibility that a being has rights because of its possession of a soul derives from the fact that it supports our conventional belief that also human beings who are not fully actualized-idiots, invalids, children, old people- have an absolutely equal entitlement to basic rights as the paradigmatic human who is fully actualized. Arguments from potentiality to some standard such as rationality are not as logically consistent. Since it is impossible to provide a rational foundation for the existence of the soul it might seem preferable to discover some other quality for the foundation of a right to life which would be capable of rational foundation. From a rationality argument we may prefer to think that only human
beings who are completely possessed of their faculties have human rights in the indicative sense, and that other human beings are entitled to human rights only in a secondary sense, to provide a wide margin of safety to assure that the ambiguous border cases who should be entitled to human rights actually receive them. Under the second premise, dispensing with the concept of soul, does a person who is permanently in a coma, with certainty, have the same right to life as a person for whom it is uncertain whether he is temporarily or permanently in a coma? Does the comatose person’s right to life depend on his potentiality to recover his consciousness? Or is the possession of a “soul” something that gives all human beings the right to life, regardless of whether they are capable of self consciousness or having interests?

A discussion of rational consciousness as a putative criterion for the right to life might best illustrate, through contrast, the indispensability of the soul as the basis of rights. Animals, perhaps all animals, may be said to have rationality to some degree, if one defines rationality as behaving in one’s own best interest. But apparently only human beings have a moral sense, which involves choosing a certain attitude of obligation to other beings because of certain principles. Only those beings have certain rights that have a certain moral sense; a being is not endowed with rights unless it can also return for this by behaving with respect to the rights of other beings. Where there is a return for having rights, when there is an exchange of respect in mutual behavior, there it is possible for a being to have rights. If a being has rationality but does not have moral sense, if it is incapable of recognizing an obligation in principle to respect the interests of others in its behavior, where it is incapable of using a rational principle to restrict its own behavior out of respect for the interests of others, then that sort of being is ineligible for the attribution of rights.\(^{34}\)

The use of rationality as a necessary criterion disposes of two difficult problems. It accounts for our conventional distinction that humans have rights and animals do not. The criterion of rationality also enables
us to generate clear-cut rules for application to particular instances, and it entirely dispenses with the need to deal with potentiality and the subjunctive mood.

The weakness of this sort of theory is the assumption that a being has rights only if it can feel a moral responsibility towards others in return for those rights. A being, in other words, is entitled to a certain number of basic protections only if it has the capacity to forbear violating those same needs in other beings. Rationality, or moral sense, appears to be a criterion too stringent to apply to the right to life; in effect it would limit human rights to the same narrow limits as economic utility. A person would have rights only to the degree that he provides utility to society. If only beings that have moral sense were to be endowed with rights, then not only infants, but young children, mentally retarded people, and senile people would be disqualified. A criminal may still be endowed with rights by this definition, for although he violates the rights of others, he nevertheless retains the capacity to recognize and feel respect for the rights of others. When we act with benevolence towards animals, infants, and mentally deranged people, is this merely supererogatory, without the implication that they have a right to this respect? Is the fact that beings such as these would not under any circumstances be able to respect and observe the rights of others entail that they have no rights against those beings whom they would not hesitate to violate? Since this strongly conflicts with the conventional intuition about who has rights, it appears that rationality and moral sense may be primary qualities for the possession of human rights, but they cannot be necessary qualities.

The soul is more attractive as a criterion of the right to life because it would make the rights of marginally classified human beings genuine rather than instances of supererogatory protection. It it is the soul which makes it absolutely forbidden to commit an abortion, then the prohibition would vary according to three possible senses of soul. If "soul" is intended to mean a substrate which is a prior, permanent
entity and which functions as the permanent seat for the vicissitudes of consciousness, then it would fail to make any moral distinction between the abortion of a normal fetus and the abortion of a deformed fetus; if it is immoral to abort one on this ground, it would also be immoral to abort the other, since the soul in this sense would be the same for both. There are theological and philosophical problems concerning this sense of soul. Primarily, it would be necessary to explain why the possession of a soul makes it important to preserve the life of a fetus; it would be necessary to explain from what the soul derives its overriding value and it would be necessary to prove that a soul exists.

ii. The Soul as Principle of Personal Identity

These problems become more apparent in the second sense of soul, according to which the soul is the principle which endows personal identity over time. Since consciousness itself is in constant change, it cannot be consciousness which gives a being his personal identity over time. The soul, as the underlying stratum of consciousness, stays self-identical throughout the changes of consciousness, and thereby gives personal identity over time. There are two difficulties with this. First, if an individual entity is given as the ground for why another individual entity stays the self-same through the changes of time, then the argument falls into a vicious regress.\(^{(35)}\) It would be necessary to explain how one can recognize the identity of the individual entity with itself if it is to be the ground which proves the self-identity of the thing whose principle of identity it is. Secondly, since by hypothesis such an underlying stratum is unchanging, it should be imperceptible.\(^{(36)}\) The concept of the soul as the principle of identity therefore has no meaning prior to consciousness, since it is only by means of consciousness that it could possibly function to provide self identity. Since in the second sense “soul” would be meaningless prior to consciousness, because the context required by personal identity through time presupposes consciousness, it would be meaningless to say that a
fetus, not being conscious, had a soul.

The first two senses of soul are too vague to resolve the pragmatic dimension of a fetus' putative right to life. Since a moral argument has a practical intention, it arrives at solution only if people in general are willing to adopt and implement it. It cannot remain true but esoteric, as in the case of a mathematical argument; it must have wide utility and must therefore attain consensus. Exactly with borderline cases, however, where it is ambiguous whether something is an instance of a concept, there is no consensus either; borderline cases are such exactly because there is no majority of people who think that the concept applies to such a case. Since precising the definition of the concept, so as to clearly determine whether it applies to a situation or not, would require resort to what the consensus is, and there is no consensus, there is no method of clarifying borderline cases. Such predicates are inherently ambiguous.\(^{(37)}\)

Whereas traditional Christian religion distinguishes the human right to moral entitlements from animals on the basis that only humans have souls, the soul is something which by definition is beyond demonstration or refutation by scientific investigation. Since it is only a subjective belief, it does not qualify as a universal criterion for laws, for law involves a universal imposition on all people. Since that would involve imposing the consequences of the belief on people who do not have that belief, and there is no compelling objective reason for asserting the belief and its consequences despite a person's disbelief, it cannot function as a ground for morality nor for rights. In place of the hypothesis of the soul, the belief that entitlements to certain rights are due to beings who have a moral sense serves to make the same traditional distinction between human beings and animals. As above, however, the attempt to salvage the same distinction in rights between humans and animals by replacing the traditional, but indemonstrable notion of 'soul' with a clarified notion of 'rationality' fails to succeed because the scope of beings categorized as having rights according to rationality would be far narrower than the scope rendered by 'soul', and would
ruin the traditional moral distinctions at least as much as it would salvage them.

iii. The Soul as Telos

In a third, teleological sense, the "soul" would make a meaningful moral distinction between aborting a normal and aborting a deformed fetus, for in this third sense the soul would convey the final development and goal of the being; since a normal fetus would fulfill the meaning of that teleological goal and a deformed fetus would not fulfill that meaning, at least the teleological sense of soul would make a reasonable moral distinction. In the first two senses of 'soul' it would be wrong to abort a fetus just because the fetus is human. The soul would however fail to give an adequate ground for the distinction made between the fetus and the baby, the normal fetus and the deformed fetus, and between the human and the animal. To say that abortions may not be performed because the human fetus has a soul and then further to argue that animals may be killed because they do not have souls, and do not have souls because only humans have souls, is to make a circular connection between 'soul' and 'human'. The teleological sense of soul is not circular, because it generates a reason for asserting that something has a soul. The teleological sense of soul may therefore produce a moral basis for accounting when certain instances of infanticide are morally right, and when instances of abortion are morally wrong. The teleological sense of soul is not entirely immune to empirical refutation or confirmation in science, and is therefore not ruled out in the pragmatic dimension as a basis for creating moral norms.

Both the fetus and the infant are living beings; they have the fundamental characteristics of living beings. Both are teleological systems in that they continue to live under the condition of fulfilling certain needs that they have. Unlike inanimate things, living things can be said to be benefitted or harmed because they have needs. Having needs, unlike inanimate things, means that they are vulnerable beings. It is
the teleological character of the fetus and the infant, based on their needs, that gives them a moral status.\(^{(25)}\)

Having needs is a necessary condition of having rights, but it is not a sufficient ground for having rights. Only a certain type of need would entitle a being to the attribution of rights. This of course involves questions of the rules by which we can attribute desires to things. Can the leaning tower of Pisa have a desire to fall over? Can an ant have a desire to collect food for the colony? Can an elephant have a desire to mate? Can a neurotic have an unconscious desire to punish his mother? Clearly "consciousness" cannot be the criterion for attributing to a fetus the desire to live, since it is only potentially inclined to acquire consciousness. If we can attribute a desire to the fetus by inference from its behavior, then the "desire" we attribute would be more like the case of the Leaning Tower of Pisa or at best the strivings of an ant. But these cases would not be legitimate cases of desire. What distinguishes a fetus from an ant or the Leaning Tower of Pisa is, ostensibly, only the difference in the object of striving: consciousness. Is it therefore enough to say that a being which \emph{would have} self consciousness is therefore entitled to the same rights as a being which \emph{does have} self consciousness? Intuitively, we would say that it would be a more immoral act to kill a sentient, rational human being than it would be to kill a being which is not sentient and rational, but \emph{would become} sentient and rational if certain subsequent conditions were fulfilled. Any theory about the rights of the fetus based on its potentiality which does not respect and account for this distinction would be inadequate.

Being a living thing with goals and needs is a necessary condition for moral consideration, but the ability to be harmed is not by itself morally relevant. Like infants and fetuses, amoebae, algae, termites, and mice are all capable of being harmed, but we do not consider their vulnerability morally relevant. We would not say that a termite has a right to life although we might say that a dog has a right to life. The moral circumstances of the fetus have a greater similarity to those of a
termite than to those of a dog in one particular sense. The dog is an animal we are familiar with; perhaps our greater revulsion at killing a dog than a termite is simply because the dog is more similar to ourselves and we feel personally familiar with it. It is very hard to feel personally familiar with a termite. Perhaps our greater evaluation of dogs and their right to life is purely a subjective ground, due to our ability to imagine what it is like to be a dog, whereas we have no imagination for what it is like to be a termite. In this sense there may be no objective justification for our preference of dogs.\(^{(39)}\) Certainly from our anthropocentric point of view, a living being that has sensation, consciousness, self-consciousness, and an intercommunicative moral community is \textit{ontologically} superior to a living being which has none of these things, such as a virus or termite. But such values are a projection of our own ontological status. If, \textit{per impossibile}, a termite could express what the supreme values of the universe were, its own position in that hierarchy of values would be very different from the position we assign to it in the hierarchy of ontological values. Since as humans we cannot extricate ourselves from the human viewpoint and objectively assess whether the hierarchy of ontological values as imagined by humans is ultimately truthful, it appears that we do not have a criterion to judge whether a human's life is more valuable or more entitled to live than a termite's. If our greater feeling of familiarity with a dog than with a termite does not correspond to some intrinsic difference which may support a moral value, then the teleological consideration is ultimately subjective and may not be a ground for discriminating with regard to rights.

In a similar manner our distinction between infanticide and abortion may be based on an equally subjective attitude. Perhaps there may be no very distinct objective difference between a fetus and an infant, in that a fetus especially at its last stage can have all the qualities that an infant has.\(^{(40)}\) However, the fetus is like the termite in that it is too remote for us to imagine what it is like to be a fetus, since the fetus is hidden from us. What seems to make the radical difference
for discrimination between the right to life of the infant and conversely the fetus is simply the sight of the infant’s face. One might conclude that it would be unfair to attribute the right to life to one but not the other since they do not differ in their intrinsic properties. The difference between the fetus and the baby is a purely epistemic one, and therefore subjective, since the difference in our cognitive relation to the fetus and the baby does not correspond to any intrinsic difference between the two.

If it is morally permissible to abort a fetus, it seems to imply that it will therefore be based on some other distinction which cuts across the distinction between fetus and infant. Either the subjective condition is a reliable indicator for a deeper lying objective distinction, so that in reality we do not make the difference because of the subjective distinction, but for a deeper lying morally substantial reason which it reliably indicates, or the subjective distinction fails to point to any further difference, in which case the distinction is irrelevant and obscures the lack of any justification for abortion.

IV. THE ARGUMENT FROM VIABILITY

The teleological notion of the soul is not thereby ruled out as the basis for rights, but it depends on whether an objective criterion for determining what type of desire has a moral value and what type of desire does not. Viability might be considered the point of development at which the desire of the fetus becomes human. Viability may be the essential element in the wrongness of abortion; certainly there could be no moral objection to aborting a fetus if it were known that it would be born dead. Is viability per se valuable, and is anything which has viability therefore entitled to be protected from abortion? The moral value of viability may be interpreted to mean the sanctity of life per se. If the per se interpretation of viability is accepted, then it is true that the fetus has a right to life; but not because it is a fetus, but because it is a living being. It would mean that the fetus has the
right to life commonly with all living things—plants, animals, viruses. Viability would then be the ultimate ground for the right to life, but further qualifications would be necessary. Viability tout court cannot be the ground for rights, because in that case all living beings would have a right to life, since all things that live have the ability under certain conditions to go on living; but we do not feel morally obligated to provide the conditions necessary for every living thing to go on living. When we assert that a fetus or a baby has a right to life, we do not intend to imply that it has this right only as much as bacteria, termites, and seaweed do; we intend to convey that the fetus has a more unique and preponderant right to life. If a fetus is to have a more unique right to life on account of its viability, setting it apart from all living things taken in general, then the moral value of viability must be interpreted more narrowly than as a synonym for the sanctity of life. But then it becomes very dubious that there can by any ground for the moral value of viability _per se_, if it isn't sanctity of life.

What is meant by viability is the viability of a human fetus, but in that case viability as the ground for the right to life is recursive; it has to rely upon some antecedent substantive principle in turn if it is to be valid. Saying that a fetus has a right to life when it is viable presupposes that it is a human fetus. But if its humanity is the substantive ground from which viability transmits the right to life to the fetus, then the argument is circular. We cannot say that viability is the point at which an embryo becomes human, and therefore has a right to life, because its humanity is what lends a moral value to the quality of being viable. If viability is the point of development at which the fetus acquires human rights, under the presumption that the fetus is a human fetus, then the quality of viability loses all moral relevance altogether. It ceases to be the ground for inferring the humanity of the fetus, for that must be presupposed. If on the other hand the moral quality of viability presupposes humanity, then there is no reason why viability, and not some other quality, should be chosen to be the moment at which the fetus has rights. If, per hypothesis, the fetus is identically
human before and after the point of viability, and it is humanity, not viability, that is the substantive reason for the right to life, then the viability of the fetus can have no moral relevance to the fetus' right to life.

The question of the morality of abortion originally centered on the status of the fetus, and more particularly, whether the fetus has the status of being human in the same sense as a grown person. Saying that the fetus has the same status when it becomes viable does not resolve the issue because the qualification has no logical relevance to ascertaining the substantial identity of the fetus and the grown person. The idea has persuasive force because it seems to give a rational explanation for a deeply accepted conventional distinction, that killing an infant at any time after birth is definitely murder, while aborting a fetus prior to the moment of birth is perhaps permissible. However, its persuasive force comes from the fallacy of inferring the antecedent, since it infers the truth of the premise from the conventionally accepted truth of its conclusion. Why should we accept the position that a fetus has the full status of being a human when it becomes viable? Or, equally, why should the actual birth of the baby be a morally relevant ground for deciding when killing is murder?

The position appears persuasive because it equivocates the issue with two other conventionally settled issues in which viability is a morally relevant ground for deciding when we do or do not have the duty to save the life of a human being. We would all agree that if a human being is terminally ill with no chance of survival, that we have less obligation to rescue that person than we would have towards a person who is perhaps in danger of imminently dying, but who is viable, that is, is able to survive and go on living if we rescue him and fulfill certain conditions for his survival. We would believe that it is at least morally wrong to let someone die who would otherwise be capable of living, given our help. In this case the moral obligation not to let someone die who would otherwise live presupposes that the person is a human. Letting a human die is in this context not morally objec-
tionable if the person will inexorably die even if we do not omit to save his life. The viability of the fetus is not a case of applying the same principle, because the principle presupposes the premise that the person is a human, whereas in the case of the fetus viability is being used as a criterion for determining whether the fetus is a human. Some further argumentation is necessary on deciding on the humanity of the fetus.

The limits of the mother's responsibility to the fetus is the second equivocation which confuses the logical relevance of viability. The viability of the fetus cannot decide on the right of the fetus to life because it cannot decide on the humanity of the fetus. Viability does have valid reference to a separate issue: the responsibility of the mother to the fetus. Since the fetus has come into being as a direct result of the mother's activities, the mother, among all other people, has primary responsibility for the fetus, because the fetus must be regarded as a consequence of her own actions rather than those of another. (41) If one should argue that the mother does not bear any special responsibility to the fetus on the ground that her becoming pregnant is a matter of contingency for which she may not be completely responsible, then one might argue that the mother has a right to abortion because of the special right she has to the condition of her body. In this case, the mother would lose her right to abortion on this ground until the moment that the fetus became viable. The mother's right to her own body would not morally enable her to abandon her unwanted fetus until society could preserve the fetus' life by removing it and incubating it. Although the mother bears the primary responsibility towards the right to life of the fetus, our only moral justification for compelling her to bear an unwanted baby is that all other people bear a secondary responsibility towards the right to the life of the fetus which they can fulfill solely through the agency of the mother. In principle, since it is assumed that spiritually there is no greater moral intimacy between this particular mother and her fetus than between two strangers, all people have as strong an obligation to the fetus' right to life as its own
mother does. It is not that the mother's duty to her own fetus is greater than any other person's to that same fetus, but because of the contingent fact of the mother's unique physical relation to the fetus, all other people can fulfill their moral obligation to the fetus only by means of the mother. We would not feel obligated to compel in itself a morally repellent act- the mother to bear the baby if its life could be preserved without coercing the mother. We would also not feel morally obligated to force a woman to bring the fetus to birth if the fetus could not possibly live. Viability would be a reasonable ground for forcing the woman to bear the fetus until it was viable, presuming that at the point of viability the fetus could be removed from the woman, without abortion, and preserved independently in a system of artificial incubation.

However, in issues such as these where viability is morally relevant, viability itself is not what constitutes the right to life. Instead, viability would constitute merely the moment when the mother would acquire her moral and legal right to abandon the fetus. If, for separate reasons, society believed that the fetus had a right to life, at that point it would be possible to extract the fetus without killing it, and the society would have the facilities to incubate the fetus without the use of the mother's body. Viability would constitute the moment when society could take over the mother's responsibility for the fetus' right to life and when the conflict between the mother's right to possession of her body and the fetus' right to life could be resolved. Nevertheless, even this use of the viability principle would not work to decide on the more fundamental question whose answer here is only presupposed, namely, whether a fetus is a human in the full sense and whether it has a right to life.

Viability is recursive and therefore doesn't settle the fundamental issue. A narrower criterion must specify when a viable or living being has a right to life in such a way that the limitation on the right to life is at least within our moral capability to uphold. If the right to life is coextensive with the sanctity of life, then it utterly fails as a
moral maxim because it is impossible for us, as human beings, to avoid killing all the beings that it would then be immoral to kill: all kinds of plants, animals, and microbes. The criteria for rationality or moral sense would successfully align the right to life with our actual moral capacity, because they are traditionally definitive of man and would therefore not overburden our moral obligation. As before considered, neither rationality nor moral sense provide a criterion of humanity and hence on the right to life because they appear too exclusive. Theoretically, too many deviations from the norm would be unendowed with rights: infants, children, retarded or insane people, and senile people. Since viability cannot be the criterion which distinguishes human from non-human, and hence permissible killing from murder, because it is too broad, and rationality is disqualified because it is too narrow, sentience appears as the next plausible principle which might adequately explain our conventional distinctions between human and animal, baby and fetus.

V. THE ARGUMENT FROM SENTIENCE

Sentience may be the criterion for the humanity of the fetus and therefore for its right to life. Even if we ruled out self consciousness and self identity as criteria of humanity and for the right to life, the mere capacity to feel pain and pleasure might very pleasantly concur with our conventional intuitions about when a fetus or a baby has a right to life, but apart from its conformity with conventional assumptions it has no rational support. It suggests the absurd distinction that at the moment when a fetus could feel pain at the act of abortion, the fetus has human status and it would be immoral to abort it; conversely, if an infant could be killed absolutely painlessly, then it would not have human status and it would be morally permissible to kill it. This criterion is also recursive. Sentience may be a criterion for the humanity and life of the fetus not because at a certain point it might be conscious of pain because it is aborted, but instead, because an
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abortion would cut short the potentiality of the being to continue having sensations of pain and pleasure. Modified in this way the criterion would presuppose that the fetus has humanity and a right to life because it is intrinsically valuable for pleasure and pain to be felt. First of all, this would call for a demonstration that there is something intrinsically valuable about feelings of pleasure and pain, such that any being that was a host for pleasure feelings and pain feelings must not be destroyed because it is an instrumental condition for the existence of pain and pleasure feelings.

One might wonder why the existence of pains and pleasures is intrinsically valuable; one might instead suppose that the identity of the being which feels the pains and pleasures is what is intrinsically valuable, while pains and pleasures are only derivatively valuable in so far as they add or detract from the value of the existence of their host. Sentience functions to discriminate between beings that deserve concern and those that do not, not because it is intrinsically valuable for pleasure and pain sensations to exist, but because pleasure and pain indicate the existence of something beyond themselves.

We presume that a pain or pleasure sensation cannot exist without an ego to be the subject of it. What distinguishes sentience from viability is not the contingent fact that it occupies a different temporal segment on the development of the fetus, but that sentience is intentional and viability is not. Pleasure and pain represent the most primitive level of mental events, and therefore mark the earliest moment of the emergence of an ego, whereas until that point the fetus has the status of viable, biological tissue. The appearance of pleasure and pain sensations marks the point at which we may mark the existence of a continuous conscious subject in time. The existence of pleasure and pain sensation mark the existence of a unified subject, and therefore of personhood. This in fact explains why there may be a moral difference between having an abortion - let us say before sentence- and infanticide. A mother who wants to have an abortion, even in preference to giving the baby up for adoption - may not be a moral monster
with no consciousness of the possible horribleness of her act. It may, on the contrary, be due to the fact that she is morally more sensitive to the prospective baby, being in fact more solicitous than the ordinary mother about its future welfare, and cannot bear the guilt of not providing it an ideal upbringing. The preference for abortion instead of giving up for adoption is due to the opportunity of forestalling an emergent intentional relation between two subjects. If the mother gives up the baby for adoption, she retains a life-long intentional relation to the other subject even if she never sees it again; that relation becomes a substantial component in her life. If the mother has an abortion before the fetus becomes a subject, the memory of the event remains, but there is no ongoing intentional relation because a subject never came into existence. Our greater concern with sentient beings is due to the supposition that pain and pleasure indicate the existence of an ego.

In order to be considered deserving of concern or as the possible holder of rights, it is not enough for a being to have needs and goals. A being must also have sensations of pain and pleasure. A dog may have sensations, emotions, and even moods. An ant cannot even have sensations, although it, per analogy, has needs and goals. Perhaps we cannot directly feel the sensations of a dog, but it is easy for us to understand that a dog is feeling pain or pleasure; the dog can communicate what its sensations are. It is with this ability to communicate pain and pleasure that we begin to feel responsible for the welfare of the other being. Viability then has a logically relevant connection to the right to life only because it occurs contingently at the same time as sentience, and therefore may act as an indicator for the more directly relevant ground for the basis of the right to life, sentience. It is the ability to believe that something is in pain or pleasure that we are able to believe that it has certain entitlements.

If the fetuses of humans are human and have a right to life on the ground that they can feel pleasure and pain, the fetuses of most animals would equally have human status and a right to life, since probably
most fetuses have an equal capacity for pain and pleasure as a human fetus. However, it is not our conventional intuition that an animal, or the fetus of an animal, has a right to life because it feels pain and pleasure. It is not the intrinsic value of sentience which entitles a being with a right to life, for in that case too many things would share the right and the result would not square well with our conventional distinctions; if sentience is the valid basis for distinction then it must function, like viability, as an indicator of some other distinction. If we assert that sensibility is what endows a fetus with a right to life, then we must also presuppose that its sensibility endows it with the right to life because it is human. Therefore, it appears that sensibility is not a criterion for deciding on the humanity or the right to life of the fetus. Since it presupposes that the fetus is human, we therefore have to discover what is meant by "human" in this context and why being "human" would consequently give a sensible thing a right to life which distinguishes it from other sensible things, animals.\(^\text{47}\)

We can usually draw the distinction between a mere tropism and the point where it becomes a felt pain or pleasure at the point where we imagine that the reaction is not only a reflex, but additionally a communication. Where we perceive a being's sensations as a sort of communication, we make the distinction between a tropism and a pleasure/pain sensation, and infer the existence of an Ego. The traditional distinction of prior to birth and after birth as the moral scrimmage between allowable killing and murder is probably due to this ultimately subjective difference. Prior to birth we experience solely the ego of the mother, and no other ego seems to be involved. A fetus, hidden from the world, is difficult to be conceived as having pain or pleasure. It has no relation nor orientation in the world; it does not communicate feelings or sensations. We might observe that a fetus reacts in a certain way, but a colony of ants may also react in a very distinct way to harmful circumstances without inviting the inference that the ants are feeling pain. It is very difficult to conceive that a fetus, which presumably is not yet a self-conscious subject, could have pains and
pleasures. The fetus cannot communicate pleasure and pain, as a baby does, and therefore we are not inclined to infer the existence of an ego or subjectivity. Sensation is disqualified because it is a subjective distinction which, when it functions as an indicator for an objective distinction, reveals an objective distinction which is too broad if it entitles all sensible things to rights. Alternatively, when sensation is considered as an indicator of an intrinsic quality, abstracting from the difference in our epistemic relations, either it would include all beings with tropisms as holders of rights, or it would not even include fetuses or babies. There is no criterion based on a temporal segment of fetal development which will rationally justify the inclusion of fetuses with babies in the right to life without including almost all animals, and so arguments for or against abortion based on fetal development collapse.

VI. THE ARGUMENT FROM POTENTIALITY

Sensibility is therefore not a criterion for rights, but an indicator of the possession of something that is a criterion for rights. The pressure to shift from self consciousness to viability to sensation is the need to reconcile our theory with the conventional moral status of babies and children. We want to include them in the same right-giving criterion. The great attraction of such criteria for humanity as viability or sensation is that such criteria alone would simultaneously provide an explanatory basis with another traditional and conventional distinction, namely that it is not as morally bad to abort the fetus in an early phase as it is in a late stage. Criteria of humanity such as viability or sentience would allow the mother some free choice for deciding on her pregnancy without completely denying the moral status of the fetus. But then we have to include other animals which we do not conventionally consider to have the right to life. The ground which forces us to upset the conventional distinction for a more explicit moral distinction is that there is no rational ground given for attributing the right to life to humans but not to animals. Since the fetuses of all
animals are roughly as sensible as the fetuses of humans, and the fetus of the human per se does not have any capacities which substantially distinguish it from other animal fetuses, the only ground for distinguishing a human fetus with a right to life must lie in potential qualities rather than actual qualities. Therefore the criterion of sensibility drops out completely. Whether the fetus has reached the stage of sensibility or not, its potentiality to become something different from an animal fetus distinguishes it from an animal fetus equally; its distinguishing feature is present then from the moment of conception. If a human fetus has a right to life because it has the potentiality to become human, then the fetus has this right to life from the moment of conception.\(^{(5i)}\)

Thus the question of potentiality enhances two decisive points about the moral nature of abortion. First it brings into question whether something which has a potentiality can have rights because of that potentiality. Secondly, it isolates the most difficult prejudice in the abortion issue. Abortion is considered to be morally bad because it is tantamount to the murder of a human being. However, this requires an account for why a human being has a moral status distinct from all animals. The issue coerces one to give some moral ground for why a human should have absolute moral preference over any animal.

i. The Logical Validity of the Potentiality Argument

The criteria for the humanity of the fetus, and hence its endowment with full human rights, are recursive. The moments of birth, viability, and sensibility all confuse a different issue with the issue of the humanity of the fetus, and by equivocal reasoning conclude that the fetus by this specific criterion has full human rights. In fact each of the criteria presupposes another qualification. Each of the criteria taken alone would leave the definition too broad and entitle most other species of animals with rights that our common sense has conventionally limited to humans. The only feature of a human fetus which distinguishes it substantially from other animal fetuses, and would
bring theory within plausible alignment with common sense by reserving rights for humans, is potentiality. A human fetus does not have self consciousness, a linguistic ability to communicate, a moral sense, nor even a consciousness of human society, but it does have the potentiality for all these features, and the features of other animals do not have these potentialities.

Therefore it is the potentiality of the fetus alone which can decide whether a fetus has human rights, and this position entails two major points. First, it means that if the fetus has rights, then it has the rights from the moment of conception. Second, if the fetus has rights on the basis of potentiality, then at any stage of pregnancy whatever the right of the fetus to its life would override any subjective preference the woman may have to abort it.

A fetus is not so different from a tumor or a bodily organ in its occurrent qualities. When we think that it has a right to life, we are considering a certain person that this fetus will become, and we are considering the injustice done to this person if he is deprived of all his passions, desires, and interests because of an abortion. Presumably infanticide is murder in the same sense as killing a grown human being; not because it has the same mental qualities but because it will have the same mental qualities. If it is potentiality to have a personality, self-consciousness, desires, and plans for the future which endow an infant with the right to life, then this should apply to the fetus as well.

Before proceeding two extremely important criticisms must be highlighted. First, all potentiality arguments depend on the fundamental premise that if something has a potentiality to become another thing x which has a certain value, then the potential entity shares in this final value and any rights that protect the value. For example, if a fetus has the potential to become a human, then it has the same rights as a human. This seems to be simply false. There is no logical reason to suppose that if x is not y, but will become y, that it has the same qualifications as y before it becomes y. If an entity has qualities, then
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the qualities attributed to it must be the occurrent qualities which it presently has. Some of these occurrent qualities may be the potentialities to become certain actual qualities. An entity which has the potentiality to produce a certain quality, but does not have that certain quality at present, nevertheless has a quality which makes it different from an entity which doesn’t posses that potentiality at all. However, a thing’s value and the possible rights it may have on the basis of its values must in this case be based on those potentialities, in the occurrent value they have as potentialities, and not on the basis of the value of the subsequent actual qualities that they may become. In short, it is not possible to infer from the fact that something may very likely become something else, that therefore even now it has the value and the rights of that thing it will turn into later.

The second major fault of the potentiality argument is that it does not, as it first appears, conform well to our conventional moral intuition. We do not suppose that a baby has the right to live because it will grow into an adult human. Since the potentiality argument is in fact founded on the premise that the fetus and baby are identical, if the fetus’ presumed right comes from its potentiality to become an adult then the same argument must stand for the right to life of the baby. However, we think that killing a baby is murder because of its own intrinsic right to life, not because of what it will become. If the initial premise for the fetus’ right to life is that it is substantially identical with the baby, then the justification for its right to life cannot be of a different type than the justification for the baby’s right to life; it cannot have its right to life because of what it will become.

ii. The Golden Rule Gambit

The question becomes entrenched in the subjunctive mood; is it wrong to deprive something of life not only under the condition that it has human consciousness, but also if, under further conditions, it would have human consciousness? Must a being have the consciousness of a human being in order for it to be morally impermissible to deprive it
of life, or simply under the condition that it would have human consciousness, if certain other conditions were subsequently added? Whereas all people are vulnerable, and therefore in need of rights to give them protection which they cannot individually provide for themselves, in the fetal and infantile period all of us, universally, were not partially but absolutely vulnerable, and therefore absolutely dependent on the protection provided from others. If I am glad that I was not aborted, then reciprocally I should not abort those who would be glad that they had not been aborted. This follows from the golden rule that we should do unto other people the same as we would like them to do unto us. If I am glad that I was not aborted, then I know from personal conviction that the person who develops from an embryo would also be glad that he had not been aborted. Since we should do unto others what we would have them do unto us, we have a duty therefore to not abort the fetus. Since we have universally benefited from this protection, it appears to be something like breaking a promise if we do not in turn give that same protection to fetuses just as we had that protection.

By making use of the Golden Rule plus the premise, “I am glad I was not aborted”, the argument presumes to substitute all questions of humanity and potentiality with reference to a moral principle, the Golden Rule. But this is ironic and amusing. After Hare has rather severely castigated Thomson and Tooley for their inconsistent reliance on personal intuition, he does exactly the same thing himself. He presumes in “I am glad I was not aborted” that he is substantially the same as the fetus that he had been, and in a morally relevant way, but this is an intuition that many do not share; some people’s intuition of the fetus is of a tiny biological mass, like a tumor, which has substantial identity with the baby as a material object but lacks all the features necessary for having unity in personal identity.

The Golden Rule argument is intended to evade the ambiguities of arguments based on potentiality. It fails to successfully evade these ambiguities, and the ambiguities finally demolish the argument. It is
clear that a fetus does not have any of the traits that would qualify it for the right to life; it does not have the minimal conditions of having self-consciousness, consciousness, or interests. What characterizes it differently from a tumor, however, is that it will develop all of the requisite qualities if its natural growth is not interfered with.\(^{56}\) Furthermore, since the fetus develops gradually, not catastrophically, there is never a precise point at which one can say that it qualifies for those rights and an immediately preceding point at which it does not. If a moral difference is to be assigned, then ultimately that difference must be based on an ostensible physical difference. Since there is no clearly relevant physical difference in the development of the fetus, but the final development definitely has rights, it follows that we must assign the same rights to the fetus at all stages of development.\(^{57}\) The argument from the Golden Rule tries to dispense with all reference to the infinitesimal increments in physical difference by asserting that moral distinctions have absolutely no connection to physical differences.\(^{58}\)

But this is not quite the case. The disclaimer that the moral distinctions concerning infanticide and abortion need to be founded on minute empirical differences in the developmental stages is based on a misunderstanding of the naturalistic fallacy. Prima facie, the fetus and the infant have the same empirical qualities, and so the distinction in moral quality between abortion and infanticide cannot reside in a non-moral distinction between the two. If the fetus had a different non-moral quality, of course it would be necessary to account for how a non-moral quality can make a distinction between two moral qualities such that the fetus would not have a right to life and the infant would have a right to life. If, on the other hand, the difference between the fetus and the infant is taken to be only a moral difference, then it becomes absolutely impossible to account for the moral difference between them if this cannot be derived from some empirical, i.e. biological difference.

The naturalistic fallacy has application when we are reasoning about
moral values, for empirical premises about states of affairs cannot validly determine how we should value, or morally value, those states of affairs. The naturalistic fallacy has its credibility when it is taken to mean that we cannot originate basic, axiomatic moral valuations from any amount of looking at the empirical data more closely. However, when we are determining the subsumption of an empirical state of affairs under a moral judgment, we are not fallaciously employing empirical premises to judge the value judgment. Empirical premises have an indispensable place in an argument subsuming an empirical event under a moral judgment. If empirical premises are excluded from the argument, then it becomes impossible to justify the moral distinction because there is no non-moral distinction to substantiate the difference. In fact, although claiming to dispense with empirical premises, the Golden Rule argument is based on an empirical premise. It presumes, without demonstration, that the fetus is in fact personally identical with the paradigmatic human being.

iii. The Metaphysical Difference of Animation and Potentiality

The Golden Rule Argument is a type of potentiality argument which tries to evade the usual inconsistency endemic to potentiality arguments: the problem of substantial change. It fails in this. The embryo, as a preconscious entity, cannot be assumed to have personal identity with the human being that it continuously develops into and therefore cannot have a right to life because of its presumed identity with something that has a right to life. Although the potentiality argument fails on this point, it may still demonstrate that the embryo has a right to life because it undergoes substantial change into a human. Since we owe the human a right to life, it may be argued that we therefore owe to the human being the conditions which will preserve his life. We therefore owe it to the human to prevent abortion of the embryo he developed from, because the causal conditions of a human’s life are a peculiar type of condition which preserves a human’s life.

Granting that the embryo develops continuously into the paradigmatic
human being, we must determine whether rights are owed to the fetus because of what it is, per se, having the potentiality to become a paradigmatic human, or whether rights are owed to the fetus because of the rights owed to what it will develop into. This is not a trivial distinction. If the fetus has a right to life per se, then it would imply that the right to life is derived from the intrinsic value of life per se, and is justified on the basis of having a soul. If, however, the fetus' right to life is owed to it because of what it will develop into, then the fetus need not have a soul, but it would have a right to life only because life is valuable for the sake of something else. The value of life itself, and a being's right to life, would be derived as conditions for the realization of those ulterior values: sentience, rationality, moral sensibility, or whatever.

The distinction between the argument from animation and the argument from potentiality consists in the duration of rights. The two arguments are deceptively the same because both may attribute rights from the moment of conception. However, the argument from the soul attributes rights in a more absolute sense, for so long as the being is human, it is unconditionally entitled to rights. The weakness of the argument from the soul is that simply being a human is not a moral predicate, and does not give a reason why humans, but not animals, should be given rights. The potentiality argument is more complete in this respect. The potentiality argument may coincide with that of the soul in claiming that humans and only humans have rights. However, in the soul argument the connection between humanity and possessing rights is analytic, and the two attributes human and possessing rights may be considered synonymous. In the potentiality argument, on the other hand, it may be contingently the case that humans and only humans possess a quality which entitles them to rights, but humans do not have rights simply for being humans. Logically, the connection is contingent and humans may fail to possess rights and other beings may be entitled to rights, according to the relation to the right-giving quality. It follows that potentiality gives rights to humans
only contingently, so that it may be only in certain segments of human life that an individual is entitled to rights, according to the period of human life in which the individual realizes the qualities that put him in the right relation to that criterion. The potentiality criterion may surpass the soul criterion in giving a moral reason for the distinction between animals and humans and in giving a rational explanation for the entitlement to rights, but it is less capable than the soul criterion in guaranteeing the security of having rights.

At first appearance the difference in criteria between having a soul and potentiality seems trivial, for both criteria imply that the fetus has a full right to life from the moment of conception. Since there is no possible scientific evidence for believing in the existence of souls, it might appear that the soul has been superseded by a more rational and defensible substitute, potentiality, which can roughly uphold the same traditional moral distinctions. In fact, however, the potentiality argument quickly implodes into absurdity, because unlike the argument from the soul, the potentiality argument disregards entirely the individual identity of the embryo.

Since the argument from the soul is entirely based on the individual identity of the fetus, the fetus has a right to life only starting from the moment of conception. The natural point of conception preserves the argument from the soul from collapsing into absurdity. Since the right to life is owed exclusively to the individual, personal identity of the fetus, the obligation vis a vis the right to life cannot extend prior to the point of conception. Since there is no practical way to control which sperm will join which egg and since there is no moral ground for selecting amongst millions of sperms, necessarily the right to life does not set in until the moment of conception. The future being cannot possibly have a personal identity, which actually endows it with a right to life, until its personal identity is settled at conception. The quite modern, not antiquated, analyses of personal identity will support Christian doctrine on this point. The potentiality argument, by contrast, reflects the pre-Christian Platonic notion that an individual’s
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value consists in his being an exemplar of some abstract quality, and therefore the personal identity per se of the fetus has no moral relevance whatever to the moral status of the fetus. Conception cannot be the ultimate point of the right to life because personal identity is irrelevant. One of the consequences in the Golden Rule argument is that a woman may be morally permitted to abort a fetus now if the birth would subsequently prevent her from becoming pregnant, and replace the aborted fetus with another fetus in a future conception, if she surmised that a later birth would be to the infant’s benefit. If it is just the real potentiality to become the exemplar of a certain abstract human trait that counts, then the potentiality of the sperm and egg are on an equal footing with the fetus, and the right to life of the potential being extends indefinitely before conception.

The potentiality argument derives the fetus’ right to life from the realization of some general, abstract trait such as its future possession of rationality, and is indifferent to the personal identity of the fetus, since life has value only as an instrumental condition for a future emergent property. Consequently conception is not a natural point prior to which the spermatozoon/zygote does not have a right to life.\(^{(60)}\) Since it is the emergence of the future being which imposes claims on the rights of the fetus, people would have a moral duty to join as many sperms and eggs as possible, for omission to join a sperm and egg is just as equally an offense against the life of a future person as failure to bear a pregnancy.\(^{(61)}\)

iv. The Personal Identity of the Fetus

Since without a notion of natural limit it culminates in absurdity, the potentiality argument must ultimately deal with the identity of the fetus. However, the potentiality argument fails in this aspect to be as successful as the argument from the soul because it must base the fetus’ right to life not on what it already \(iS\) (e.g. an entity possessing a soul, an assertion which the potentiality argument dismisses), but on what it will become. First of all, it cannot be the fetus to whom we
are doing wrong when we perform an abortion, because the fetus is not glad that it has not been aborted. It cannot be glad about anything; it is not conscious. Consequently the person to whom we are doing wrong is the person in the future who would grow up if this fetus were not aborted. I am doing wrong to a nonexistent person, who would be existent if I did not execute the abortion. The result seems paradoxical. If I do a person wrong by aborting him, then I have not done him wrong, because he doesn't exist. If he does exist, so that it may be said that I have done him wrong in aborting him, then I have done him no wrong, because he cannot have been aborted in that case. The essential question here is whether I have the same moral duties to purely nonexistent people as I do to people who exist. Can I seriously believe that I have a moral duty not to prevent someone from coming into existence? Can I have moral duties to nonexistent people?

A person who has been frustrated from pursuing his interests and fulfilling his desires because of an abortion does not seem to suffer injustice like some other person whose interests have been frustrated. Since because of the abortion the subject of those desires and interests does not exist, no injustice has been done because there is no subject to have those frustrations. In the normal case in which indemnification is morally obligatory, the victim of harm is deprived of something, but the victim remains after the deprivation and continues to suffer from the deprivation. For example, in the case of murder it is generally accepted that punishment of the murderer does not function as a retribution for the sake of the victim. It is crucial to know whether it is wrong to kill something if there is no conscious ego to know or sense that there are interests and that they have been frustrated. It might be possible to instantaneously murder a person, such that he never realizes that he is dying, does not feel any pain or unpleasant emotions, and does not reflect that any of his interests have been frustrated. We would say that it is still immoral to kill a person even though he never knows anything about it; is the act of aborting a fetus different or analogous to this?
v. The Fetus as the Potential Bearer of Rights

The question of moral responsibility to the unconscious victim must be initially distinguished into two senses of unconscious victim: the fetus/baby that is unconscious because it has not yet developed into a paradigmatic human, or the non-existent person it becomes, who is unconscious because he doesn’t exist. In the above example, it is certain that a person who has been instantaneously killed and never knows it has had wrong done to himself, and his unconsciousness or his non-existence subsequent to the event does not make it any less wrong. But there is a profound ontological difference between the murder victim and the fetus; the murder victim had a conscious subjectivity prior to the point when he was wronged. Since the function of a right is to provide a kind of protection, only something which is able to have interests, and can therefore be capable of enjoying a protection, is able to have such a thing as a right. This is merely a necessary condition, not a sufficient condition, for the notion of a right. The criterion that a being must have interests would include most animals. If it is completely unconscious, and therefore cannot have any interests, then it is impossible for it to have a right. The essential question is whether only beings conscious of having interests can be said to have interests, and therefore qualify for having rights, or whether beings which cannot be conscious of having interests may nevertheless be said to have interests, and plausibly be considered to deserve concomitant rights.

This criterion would support our conventional distinction that humans have rights and animals do not. Only humans have a highly developed consciousness of concepts, while animals do not. It follows that only humans can be conscious of having interests, since being conscious of a desire or an interest involves the application of concepts to articulate that interest. Animals, not having a highly developed use of concepts, may be said not to have conscious interests. This would nicely explain the exclusion of animals from the rights attributed to humans, and possibly extend so far as to account for why a fetus does not have the
rights of the paradigmatic person. However, since the linguistic ability of a baby does not distinguish it from animals until long after birth, this criterion would not conform to our conventional concept of the scope of human rights, since not only a fetus but an infant, i.e. in Latin non-speaker, would be excluded from the stringent right to life. In point of fact the Greek and Roman cultures incorporated the infant in the same category as the fetus, thereby justifying child exposure. A being might be entitled to have certain rights only if it had certain interests.

The fetus does not have a right to life because of being what it is presently per se on the ground of its analogy with other unconscious victims, because the analogy is faulty. Thus far the moral issue is regardless of whether the interests are conscious or unconscious. A person in a coma or a person who is instantaneously murdered has been violated even if he is not aware of the violation. Unlike the murder victim the unconsciousness of the fetus is not an unconsciousness of a specific event, but an unconsciousness that is constitutive of the nature and identity of the being. Its unconsciousness makes it a different kind of entity. If the fetus has a right to life on the basis of having unconscious, frustrated interests, then the entity bearing the proper analogy can only be the non-existent person.

Normally when we deal with cases of potential persons, such as future generations or counterfactual persons or one’s own future self, the being to whom we might feel obligated is one that initially has a stake in the world; at the moment we posit its existence its identity is defined through interests and desires that can be frustrated. We may regret that a human has not lived longer, but we regret that he did not have an extension on the end of his life; we do not regret that a person had not lived longer by being born twenty years earlier, for instance. The obvious ground for this discrepancy is that a person who lived twenty years longer on the end of his life would have the same identity, but a person who was born twenty years earlier than he actually was, would be an entirely different person altogether; he
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may have the same genetic identity, but if he were born earlier the circumstances would have constituted an entirely different identity; it would not be the same person. Committing wrong against another person entails doing something that frustrates what that person would want. The unique case of the fetus is that it is likely to become a being that can have interests and desires, but it is in an initial period in which it does not have any interests nor desires. The embryo is analogous to the person who did not live twenty years earlier, which is a case that we do not conventionally regret. The fetus does not have a history that would constitute its identity.

Of course aborting the fetus is in one sense going against its interests, but one must distinguish between the literal sense of going against interests and an analogical sense. In the primary sense, a thing can have interests if it is conscious of having interests, and is consciously intending the furtherance of those interests. It is impossible to frustrate the interests of a fetus in this literal sense. Of course it is possible to frustrate the interests of the fetus in another sense. One can clearly discern that the growth of the fetus is in the direction of a certain goal, but this is a tropism rather than a conscious intention of the fetus. Furthermore, part of the goal of the fetus' interest will be to have conscious intentions. Both are true, but to say that the fetus has an intention in this sense, and then equivocally infer from its having intentions in this analogical sense that the fetus is a person, is fallacious. Even through part of the goal of its development is to have conscious purposes, the fetus is not a person having interests during this period of development. The peculiar justification belonging to abortion is the impulse to extinguish the existence of the fetus before it is possible for the fetus to have interests that can be gone contrary to; in the interim period, so long as the fetus can have no interests, then aborting the fetus cannot be against its interest, and no moral wrong can be done.

The conventional intuition about the legitimacy of abortion rests on the view that a fetus does not have a personality in any degree, nor
any interests, nor any consciousness, and therefore to insist that the embryo has rights is tantamount to insisting that an appendix has rights. It is simply not the sort of thing which can be violated, because it doesn’t have desires, expectations, or even the ability to experience pain. If the fetus had no potentiality to become a human being with a personality, it would certainly not qualify for formal consideration. If the fetus is entitled to moral consideration, then it is entitled by virtue of the desires, interests, and expectations of the person that it is later to become.  

vi. The Fetus as the Potential Object of Right

Let us assume hypothetically that a fetus has been aborted and that a moral wrong has been done. The question becomes who it is to whom the wrong has been done. A fetus, having no personality, no position nor identity in the world, cannot be the victim of the wrong; if it were a murder, there would have to be some sort of identity which would specify who the victim is. But a fetus has no identity; the only identity it has is that it is the fetus of one particular woman and not of another, or, if you like, one chain of genes rather than another. There is however no quality of the morally relevant sense which gives the fetus an identity as an intentional being and which would therefore distinguish one fetus as an individual apart from other individual fetuses.

That the fetus does not have individuation as an intentional entity and therefore does not have a human’s right to life, is, as such, enthymemetic. What gives a human the morally relevant quality such that it has a right to life is that it is at least an intentional being, for no being without consciousness can have rights. It is not that the fetus does not have a specific identity isolating it vis a vis other fetuses, but the fact implicit in this situation, that it does not have the minimal qualification of intentional consciousness, which rules it out as an actual bearer of rights. If, therefore, there is moral obligation to a fetus, it must be to the fetus in a general, not individuated sense, based on the
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general trait that it may develop individuating identity traits. However, it is not plausible that the fetus per se has rights because it has the non-individuating general quality of developing an individuality and therefore presently has rights on the basis of a morally relevant quality that it does not possess, but will come to possess later. Let us suppose, per hypothesis, that a fetus merely lives only nine months and then, instead of issuing in a birth, simply decomposes. No one would insist in that case that the fetus had a right to life. It would be morally permissible to abort the fetus before the end of the nine month term. It is not the fetus that has rights because of its ability to become an individual, but the right of the future individual which has claims on the treatment of the fetus because of its causal connection with the existence of the individual. Because the fetus has potentiality the right of the future individual to his own causal conditions extends to claims on the way the fetus must be treated.

This result would imply that the potentiality of the fetus to become an intentional being does not endow the fetus with rights that might be attributed to an intentional being, but one might argue that the potentiality of the fetus does endow the intentional being that it is destined to become with rights on the treatment of the fetus. Consequently the fetus would not have rights, but it would be the beneficiary of the rights owed to the potential person.

The person the fetus is later to become may not endow the fetus with a right to moral consideration, for the simple reason that the person the fetus is to become is nonexistent. But that the fetus is endowed with rights derived from the rights of an as yet nonexistent person is not implausible. We generally feel moral responsibility towards the future people of a hundred years from now, even though they are nonexistent. To what degree may one argue that a fetus is the object of rights, not the bearer of rights, because of its potentiality to become a person who certainly would have rights?
vii. The Rights of the Nonexistent Person

Two problems ensue from this result. One problem concerns the transitivity of rights and the other concerns the rights of a nonexistent person. The identity of a person requires a context in the world. If the fetus cannot be individuated, then it cannot be the victim of a wrong. The other possibility is that the victim to whom wrong is done is the future human being who would have developed from that fetus. If, however, this human being is not prior to the fetus, but subsequent to it, then this person does not individuate the fetus. The last possibility is that it is not the fetus that is wronged, but the potential person himself who has been cheated out of existence because of the abortion. Its person however is not existent, and has no individuating properties; it is very difficult to claim that a moral wrong has been done against a nonexistent but potential individual who has no identifiable properties. A moral wrong might be done against a nonexistent individual who has once been alive, but that entails that the nonexistent person to whom wrong was done had interests which really were intentionally formed and frustrated. It is very difficult to suppose analogously that a person has been wronged because an abortion has frustrated not real interests which he really had, but potential interests that he would have had if he had been permitted to come into existence.

I have responsibility towards another nonexistent person, namely myself, thirty years from now. Preparing for that person's welfare may come in conflict with my present welfare. Furthermore, that person who I become in thirty years might be quite a different person from my present self; when I prepare for my well being thirty years from now, I have to take in consideration not what my own preferences and likings are now, but what my preferences and likings are likely to be thirty years from now, even if I can't feel any liking or even respect for those preferences now. I can nevertheless feel a moral obligation to an as yet nonexistent person. In this situation as well, the future person is not individuated by any specific qualities. I may
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change into a million different future identities—but the lack of individuation does not diminish my responsibility to that future person; it is analogous to the case of the embryo, which may also have claims on me on the basis of the rights of the future person it will become even if the future being it represents lacks the condition of having a specific identity. In the case of a fetus, it is necessary to analogously respect the probable needs and preferences of the as yet non-existent person which has rights, by protecting the causal conditions through which that person can come into being.

In the two analogous cases, the generation of people a hundred years from now or one’s own self thirty years from now, the point of similarity with the fetus is that one is compelled to imagine the needs and interests of a being that does not yet exist and infer to what the preliminary being is obligated to or is owed. The point of dissimilarity is that one’s future self or the generation of a hundred years from now has a spatio-temporal inevitability in a way that a fetus will not. The mother can directly cause the future person not to exist; I cannot in the same sense cause my future self or future people not to exist. There is a moral inevitability about facing the problem of a future self or future generation, but it is not in the same sense inevitable that one must face the moral problems of the future of a fetus. I have a moral obligation to my future self or to the future generation because it is a fait accompli; I cannot make the problem exist or not exist as as a problem by my act of will. A future self or a future generation is an embodied identity which continues through time. If I have a responsibility to a self thirty years later, it is a concrete self with a historical identity.

The proper analogy of a non-existent future person developing from an embryo is not to my future self or to a future generation. The analogy is correct only if I have the power to make that future self not to exist. But in the context of this analogy, I don’t have any such moral duty to my future self, and by analogy, a mother would not have that moral duty to the future person that her fetus would become. I
do not have a moral obligation towards a self thirty years from now which has hypothetical qualities. If I refuse to move to France, I do not fail in protecting the causal conditions for the self I would become, thirty years from now, if I had moved to France; I am not morally guilty to that person for thwarting his existence. My future hypothetical self does not have rights against me. On this account it seems implausible, as in the Golden Rule Argument, that I have an unlimited moral obligation to cause nonexistent people to come into existence because they have a right to life equal to that of existent people and because I have a reciprocal duty that derives from the fact that I was brought into existence. I can have a moral obligation to another person only if the person is individuated through real qualities.

Analogously, I cannot have a moral obligation to a fetus which would have certain individual characteristics. One cannot individuate an entity through specific qualities which it would have later, although one might have moral obligations to it for having the present quality of being able to acquire traits in the future. The personhood of a self or of a future generation is continually entangled in a past and a changing series of relations and interests with the world that incessantly specifies its identity. There is never a moment when such a person has absolutely no interests. There is never a moment when its process can be stopped without involving frustration of interests. A fetus on the other hand has the potentiality to develop interests, relations, and memories, but until it comes out into the outer world it cannot begin the process of making associations, interests, and relations. To say that a fetus already has a relation or interest in the mother is to equivocate intentional relations with tropisms. It may have the potentiality of becoming a self, but it is not yet a self. While in the womb it has a biological relation and dependence on the mother, but not an intentional one. Although we may conceive it as having a relation of one person to another, we may not project this concept into the relation of the fetus. The fetus does not think of itself as a subject in relation to another subject. When it has interests and desires, then it is capable
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of needing protection for those desires, and hence may be able to enjoy rights.

The potentiality argument fails to present a coherent theory for abortion because it dispenses with the notion of personal identity as the ultimate criterion for the right to life. The potentiality argument finally implies that there is no moral prohibition on abortion, because prior to the fetus' acquisition of consciousness there is no subject to whom rights may be owed. The concept of the soul is uniquely capable of supporting our moral condemnation of infanticide and the moral distinction between animals and humans, and it implies that abortion from the moment of conception is wrong. Since the Christian concept of the soul cannot be translated or substituted with any other concept at all, it is impossible to solve the moral problem of abortion because we do not have sufficient understanding of the relevant issues. The solution of the abortion problem depends on conclusions drawn about independent, and much more serious issues. Until we can resolve much more profound problems about how we can receive basic doctrines of Christianity into the twenty first century, problems such as the morality of abortion which turn out to be derived from our Christian or non-Christian beliefs about life and death cannot be resolved.

NOTES

(1) Bonnie S. Anderson and Judith P. Zinsser, A History of Their Own volume II, Penguin, 1988, pp. 246-7: "Neglect and exploitation could also cause the death of a child. A German working-class woman who identified herself as 'Martha' wrote to Louise Otto-Peter's women's newspaper on the subject of 'angelmaking' in 1849. 'In order to earn money by means of them and get rid of them, she stated, 'children are mutilated intentionally and made sick, so that by their misery they will inspire pity on the arm of the female beggar and finally die.' Martha believed poverty caused parents to do this: 'People just want to make some money, and because they know no other way of earning a living, they make angels.' Even under conditions of extreme poverty, however,
women rarely resorted to infanticide or harming their children. Such practices died out in the third quarter of the nineteenth century, when the rising standard of living and the increased availability of contraception made such desperate measures unnecessary. While many European women in the late nineteenth and twentieth centuries continued to bear children they had not wished for, increasingly women gained some measure of control over their reproductive capacity. With that, infanticide disappeared for the first time in European history and the chances of a child's survival generally improved."

(2) J. J. Thomson, "A Defense of Abortion", in Philosophy and Public Affairs vol. 1, no. 1, 1971: "...some people are rather stricter about the right to life. In their view, it does not include the right to be given anything, but amounts to, and only to, the right not to be killed by anybody...I am arguing only that having a right to life does not guarantee having either a right to be given the use of or a right to be allowed continued use of another person's body- even if one needs it for life itself."

(3) Anderson and Zinsser, op. cit., p. 243: "The Italian Civil code of 1866 allowed for no paternity suits except in cases of rape or abduction; Italian women did not gain the right to sue for paternity until 1974. The prevailing European attitude was stated by an Irish legislator in 1837: 'Irish females should be...guardians of their own honor, and be responsible in their own persons for all deviations from virtue.'"

(4) J. J. Thomson, op. cit.: "Suppose a woman voluntarily indulges in intercourse, knowing of the chance it will issue in pregnancy, and then she does become pregnant; is she not in part responsible for the presence, in fact the very existence, of the unborn person inside? No doubt she did not invite it in. But doesn't her partial responsibility for its being there itself give it a right to the use of her body?"

(5) Humber, "Abortion: The Avoidable Moral Dilemma", in The Journal of Value Inquiry, vol. 9, 1975: "If this were tried, however, it would have to be rejected, for even if a pregnant woman's life were in danger, a non-sentient fetus could hardly be held responsible for its actions. Further, since the fetus is merely growing without conscious purpose, it makes no sense at all to say that it is attempting to do anything, much less take the life of another human being. But if this is so, no self-defense justification of abortion is possible. After all, how could person X seriously hold that his or her killing of another (Y)
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was justified in terms of self-defense, and at the same time admit that Y was neither responsible for his actions, nor unjustly assaulting X?"

(6) J. J. Thompson, op. cit.: "Opponents of abortion have been so concerned to make out the independence of the fetus, in order to establish that it has a right to life, just as its mother does, that they have tended to overlook the possible support they might gain from making out that the fetus is dependent on the mother, in order to establish that she has a special kind of responsibility for it, a responsibility that gives it rights against her which are not possessed by any independent person- such as an ailing violinist who is a stranger to her."

(7) J. J. Thomson, op. cit.: "...in no state in this country is any man compelled by law to be even a Minimally Decent Samaritan to any person; there is no law under which charges could be brought against the thirty-eight who stood by while Kitty Genovese died. By contrast, in most states in this country women are compelled by law to be not merely Minimally Decent Samaritans, but Good Samaritans to unborn persons inside them."

(8) J. J. Thomson, op. cit.: "Opponents of abortion have been so concerned to make out the independence of the fetus, in order to establish that it has a right to life, just as its mother does, that they have tended to overlook the possible support they might gain from making out that the fetus is dependent on the mother, in order to establish that she has a special kind of responsibility for it, a responsibility that gives it rights against her which are not possessed by any independent person- such as an ailing violinist who is a stranger to her."

(9) Steven L. Ross, "Abortion and Death of the Fetus", in Philosophy & Public Affairs, Vol. 11, no. 3, summer 1982: "We can take the fetus out of your womb without any harm to you or it, keep it alive elsewhere for nine months, and then see it placed in a good home," many would, understandably, be quite unsatisfied. What they want is not to be saved from 'the inconvenience of pregnancy' or 'the task of raising a certain (existing) child'; what they want is not to be parents, that is, they do not want there to be a child they fail or succeed in raising. Far from this being 'exactly like' abandonment, they abort precisely to avoid being among those who later abandon. They cannot be satisfied unless the fetus is killed; nothing else will do."

(10) Wayne Sumner, Abortion and Moral Theory, ch. 4, "A Third Way",

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Princeton University Press, 1981; also in Moral Issues, ed. Jan Narveson, Oxford University Press, 1983, P. 196: "An adequate view of the fetus promises a morally significant division between early abortions (before the threshold stage) and late abortions (after the threshold stage). It also promises borderline cases (during the threshold stage). Wherever that stage is located, abortions that precede it will be private matters, since the fetus will at that stage lack moral standing. Thus the provisions of the liberal view will apply to early abortions: they will be morally innocent (as long as the usual conditions of maternal consent, etc., are satisfied) and ought to be legally unregulated (except for rules equally applicable to all other medical procedures). Early abortion will have the same moral status as contraception."

(11) J. J. Thomson, op. cit.: If mother and child have an equal right to life, shouldn't we perhaps flip a coin? Or should we add to the mother's right to life her right to decide what happens in and to her body, which everybody seems to be ready to grant— the sum of her rights not outweighing the fetus' right to life?"

(12) St. Thomas Aquinas, Summa Theologicae II-II, p. 64, art. 7: "Nec est necessarium ad salutem ut homo actum moderatae tutelae pratermittat ad evitandum occisionem alterius; quia plus tenetur homo vitae suae providere quam vitae alienae. Sed quia occidere hominem non licet nisi publica auctoritate propter bonum commune, ut ex supra dictis patet [art. 3], illicitum est quod homo intendat occidere hominem ut seipsum defendat."

(13) J. Finnis, "The Rights and Wrongs of Abortion: A Reply to Judith Thomson", in Philosophy and Public Affairs, vol. 2, no. 2, Winter 1973, 117-144; also in The Philosophy of Law, ed. R. M. Dworkin, Oxford University Press, 1977, p. 143: "If one is to establish that one's death-dealing deed need not be characterized as directly or intentionally against the good of human life, the 'doctrine' requires more than that a certain bad effect or aspect (say, someone's being killed) of one's deed be not intended either as end or as means. If one is to establish that one's death-dealing deed need not be characterized as directly or intentionally against the good of human life, the 'doctrine' requires further that the good effect or aspect, which is intended, should be proportionate (say, saving someone's life), i.e. sufficiently good and important relative to the bad effect or aspect: otherwise (we may add, in our own words) one's choice, although not directly and intentionally to kill, will reasonably be counted as a choice in-
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adequately open to the value of life. And this consideration alone might well suffice to rule out abortions performed in order simply to remove the unwanted foetus from the body of a woman who conceived as a result of forcible rape, even if one were to explicate the phrase 'intended directly as end or as means' in such a way that the abortion did not amount to a directly intended killing (e.g. because the mother desired only the removal, not the death of the foetus, and would have been willing to have the foetus reared in an artificial womb had one been available.'

(14) J. J. Thomson, "A Defense of Abortion", in Philosophy and Public Affairs, vol 1, no. 1, 1971: "No doubt the mother has a right to decide what shall happen in and to her body; everyone would grant that. But surely a person's right to life is stronger and more stringent than the mother's right to decide what happens in and to her body, and so outweighs it. So the fetus may not be killed; an abortion may not be performed."

(15) Judith Jarvis Thomson, "A Defense of Abortion," Philosophy and Public Affairs, vol. 1, no. 1, 1971: "My own view is that if a human being has any just, prior claim to anything at all, he has a just, prior claim to his own body. And perhaps this needn't be argued for here anyway, since, as I mentioned, the arguments against abortion we are looking at do grant that the woman has a right to decide what happens in and to her body." Also in Moral Problems, ed. James Rachels, p. 138.

(16) Wayne Sumner, Abortion and Moral Theory, ch. 4, "A Third Way", Princeton University Press, 1981; also in Moral Issues, ed. Jan Narveson, Oxford University Press, 1983, p. 198: "There are four that appear to be the most serious: we might attribute full moral standing to the paradigm person on the ground that he/she is (i) intrinsically valuable, (ii) alive, (iii) sentient, or (iv) rational."

(17) Humber op. cit.: "Thus, if Brandt is correct in holding that the existence of a "memory gap" will cause his moral code choosers to favor abortion, he must also hold that it will lead them to condone infanticide. And unless one is willing to accept the view that the killing of newborn babies is not even prima facie wrong, Brandt's analysis must be rejected out of hand."

(18) R. B. Brandt, "The Morality of Abortion, "The Monist 56, 1972, pp. 509-510: "...there is not an unrestricted prima facie obligation not to kill (humans), but only a prima facie obligation not to kill in certain types of cases;
and...tentatively suggest a general formulation of a restricted principle which would have the effect of not entailing that there is a prima facie obligation not to cause an abortion... It is prima facie wrong to kill human beings, except those which are not sentient and have no desires, and except in reasonable defense of self or others against unjust assault.''

(19) Wasserstrom, 'The Status of the Fetus', in Moral Problems, ed. James Rachels, Harper & Row, 1979, p. 119: 'In particular, the absence of an ability to communicate, to act autonomously (morally, as well as physically), to be aware of one's own existence, and/or to experience sensations of pain and pleasure would singly and collectively be taken to be sufficient grounds for regarding the fetus as more like an organ growing within the woman's body than like any other kind of entity.'

(20) M. Tooley, 'In Defense of Abortion and Infanticide', in Moral Issues, ed. Jan Narveson, Oxford University Press, 1983, p. 223: 'First, that there is a property, even if one is unable to specify what it is, that (i) is possessed by normal adult human, and (ii) endows any being possessing it with a right to life. Secondly, that if there are properties which satisfy (i) and (ii), at least one of those properties will be such that any organism potentially possessing that property has a right to life even now, simply in virtue of that potentiality-where an organism possesses a property potentially if it will come to have it in the normal course of its development.'

(21) R.M. Hare, 'Abortion and the Golden Rule', Philosophy & Public Affairs 4, no. 3, Spring 1975: 'The potentiality principle says that if it would be wrong to kill an adult human being because he has a certain property, it is wrong to kill an organism (e.g. a fetus) which will come to have that property if it develops normally.'

(22) R. Wasserstrom, op. cit., p. 119: '...But there are no significant differences between newly born infants and fetuses which are quite fully developed and about to be born. What is more, there is no point in the developmental life of the fetus which can be singled out as the morally significant point at which to distinguish a fetus not yet at that point from one which has developed it and hence is now to be regarded as a person. Therefore, fetuses are properly regarded from the moment of conception as having the same basic status as an infant.'

(23) R.M. Hare, op. cit.: 'Therefore, if we decide that, 'within the mean-
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The principle about murder, a fetus becomes a person as soon as it is conceived, we are deciding a moral question, and ought to have a moral reason for our decision. It is no use looking more closely at the fetus to satisfy ourselves that it is really a person (as the people do who make so much of the fact that it has arms and legs); we already have all the information that we need about the fetus.''

(24) John Stuart Mill, *Three Essays*, Oxford University Press, 1989, *On Liberty*, p. 115: "...The maxims are, first, that the individual is not accountable to society for his actions, in so far as these concern the interests of no person but himself. Advice, instruction, persuasion, and avoidance by other people if thought necessary by them for their own good, are the only measures by which society can justifiably express its dislike or disapprobation of his conduct. Secondly, that for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or to legal punishment, if society is of opinion that the one or the other is requisite for its protection.''

(25) M. Tooley, op. cit., p. 224: "Alternatively, one could appeal to the more modest claim involved in the interest principle, and use it to argue that since a fertilized human egg cell cannot have any interests at all, it cannot have any rights, and a fortiori cannot have a right to life. So potentialities alone cannot endow something with a right to life.''

(25) M. Tooley, op. cit., p. 220: "For someone might hold—and surely some people in fact do—that while continuing subjects of experiences and other mental states certainly have a right to life, so do some other organisms that are only potentially such continuing subjects, such as human fetuses. A right to life, on this view, is either the right of a subject of experiences to continue to exist, or the right of something that is only potentially a continuing subject of experiences to become such an entity.''

(27) Brandt, op. cit.: "Suppose...my brain would be removed to another body which could provide normal life, but the unfortunate result of the operation would be that my memory and learned abilities would be wholly lost, and that the forming of memory brain traces must begin again from scratch, as a newborn baby...the question is whether I would take an interest in the continued existence of myself in this sense. It seems to me that I would not...''

(28) M. Tooley, op. cit., p. 221: "Desires existing at different times can belong to a single, continuing subject of consciousness only if that subject of
consciousness possesses, at some time, the concept of a continuing self or mental substance."

(29) James M. Humber, "Abortion: The Avoidable Moral Dilemma", in The Journal of Value Inquiry, vol. 9, 1975: "Even if we ignore this apparently irresolvable problem, however, what possibly could serve to justify the belief that an individual's rights may 'supersede' those of a human? That is, since the right to life is a human right rather than a personal one, fetuses must be seen as possessing that right even if they are not held to be true individuals."

(39) Michael Tooley, op. cit.: "Settling the issue of the morality of abortion and infanticide will involve answering the following questions: What properties must something have to be a person, i.e. to have a serious right to life? At what point in the development of a member of the species Homo sapiens does the organism possess the properties that make it a person?"

(31) Richard Wasserstrom, "The Status of the Fetus", in Moral Problems, ed. James Rachels, Harper & Row, 1979, p. 118: "That the fetus is in most if not all morally relevant respects like a fully developed, adult human being... The first is a theological argument which fixes conception as the time at which the entity acquires a soul. And since possession of a soul is what matters morally and what distinguishes human beings from other entities, the fetus is properly regarded as like all other persons."

(32) Joel Feinberg, "The Rights of Animals and Unborn Generations", in William T. Blackstone, ed.: Philosophy and Environmental Crisis, 1974, pp. 43-68: "...the sorts of beings who can have rights are precisely those who have (or can have) interests."

(33) Thomas Nagel, in Applied Ethics, ed. Peter Singer, Oxford University Press, "Death", p. 13: There certainly are goods and evils of a simple kind (including some pleasures and pains) which a person possesses at a given time simply in virtue of his condition at that time. But this is not true of all the things we regard as good or bad for a man. Often we need to know his history to tell whether something is a misfortune or not; this applies to ills like deterioration, deprivation, and damage. Sometimes his experiential state is relatively unimportant- as in the case of a man who wastes his life in the cheerful pursuit of a method of communication with asparagus plants."

(34) G. E. Scott, Moral Personhood, State University of New York Press, 1990, p. 90: Whatever, after all, allows us to say of several individuals that they are
all moral persons requires that they all have certain higher order beliefs, etc. in common; what distinguishes them from one another will be not only the additional beliefs, intentions, etc. that they hold, but also the particular manner in which they might be said to hold the characteristically moral beliefs, intentions, etc. (and belief systems) that make it possible ab initio for us to place them in the class of moral persons. We discover, according to our proposal, that a particular person is a moral person (moral agent) when we discover - by access to his/her beliefs, intentions, etc. - that s/he both recognizes that by a voluntary action (or inaction) s/he could influence in a causal way (where the causes may be either nonintentional or intentional, or both?) either the development of an individual into a person or the continuation of an individual as a developed person or moral person, and attempts to act in accordance with this recognition.

(35) Anthony Quinton, *The Nature of Things*, Routledge & Kegan Paul, 1978, p. 89: "The first defect of spiritual substance as a criterion of personal identity is one with which we are already familiar: its regressiveness. It is of no avail to define the identity of an individual thing of a given kind in general terms of the presence within it of another individual thing of the same kind. In the case under discussion the attempt is made to define the identity of one sort of mental thing, a person, in terms of another, a spiritual substance. It is clear, at any rate, that spiritual substance poses a problem of identity of its own since it must endure through time, perhaps through all time, and yet it presents itself only as it is at any one moment."

(36) Anthony Quinton, in *Personal Indentity*, ed. John Perry, University of California Press, 1975, "The Soul", p. 55: "...Finally, if it is held that the spiritual substance is nevertheless a permanent and unaltering constituent of a person's conscious life, it follows that it must be unobservable and so useless for purposes of identification... The unobservability of spiritual substance, and its consequent inapplicability as a criterion, can also be held to follow directly from taking its status as substance seriously, as an uncharacterized substratum for qualities and relations to inhere in with no recognizable features of its own."

(37) R.M. Hare, op. cit., p. 154: "If a normative or evaluative principle is framed in terms of a predicate which has fuzzy edges (as nearly all predicates in practice have), then we are not going to be able to use the principle to decide cases on the borderline without doing some more normation or evaluation."

(38) Wayne Sumner, op. cit., p. 200: "All such creatures share the property
of being teleological systems: they have functions, ends, directions, natural tendencies, and so forth. In virtue of their teleology such creatures have needs, in a nonmetaphorical sense-conditions that must be satisfied if they are to thrive or flourish. Creatures with needs can be benefited or harmed; they are benefited when their essential needs are satisfied and harmed when they are not. It also makes sense to say that such creatures have a good: the conditions that promote their life and health are good for them, whereas those that impair their normal functioning are bad for them.''


(40) R. Werner, “Abortion: The Ontological Status of the Unborn”, in Social Theory and Practice, vol. 3, no. 2, Fall 1974, pp. 201-222; also in Ethics:, Theory and Practice, eds. Velasquez and Rostankowski, Prentice Hall, 1985, p. 254: “...Birth is totally arbitrary. There is no relevant biological, moral or conceptual difference between the newborn and the almost delivered fetus. The fact that during the last two months of pregnancy we could deliver the fetus at any time shows that birth is a totally ad hoc criterion for being human, since when birth occurs is totally arbitrary and even controllable by outside means.”

(41) J.J. Thomson, op. cit.: “Suppose a woman voluntarily indulges in intercourse, knowing of the chance it will issue in pregnancy, and then she does become pregnant; is she not in part responsible for the presence, in fact the very existence, of the unborn person inside? No doubt she did not invite it in. But doesn’t her partial responsibility for its being there itself give it a right to the use of her body?”

(42) J.J. Thomson, op. cit.: “Opponents of abortion have been so concerned
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to make out the independence of the fetus, in order to establish that it has a
inght to life, just as its mother does, that they have tended to overlook the
possible support they might gain from making out that the fetus is dependent
on the mother, in order to establish that she has a special kind of responsibility
for it, a responsibility that gives it rights against her which are not possed
by any independent person- such as an ailing violinist who is a stranger to
her.'

(43) Peter Singer, Praktische Ethik, Reclam 1984, p. 119: "...Der erste
besteht darin, einfach zu akzeptieren, dass es gut ist, die Anzahl der lustvollen
Leben zu erhöhen, um die Summe der Lust in der Welt zu steigern, und schlecht,
die Summe der Lust in der Welt zu vermindern, indem man die Zahl der lust-
vollen Leben vermindert.'

(44) M. Tooley, op. cit., p. 221: "The critical question, then, concerns the
conditions under which desires existing at different times can be correctly attrib-
uted to a single, continuing subject of consciousness.'

(45) Ross, op. cit.: "We see bearing children as one of the more important
things we ever do, and we want to do it in a responsible way; that is, only when
we can raise them ourselves in a loving, attentive, unambivalent fashion. The
desire here is not to fail or be remiss with respect to this picture. For someone
with these values, such failure would be a source of substantial- in part because
it would be ongoing- shame and humiliation. There would always be in the
world a person to whom one was failing to be a proper or full parent, and this
is a failure one understandably dreads. Abortion for those with these values is
best seen, I suggest, as the only means by which they can regain their situation
antecedent to pregnancy where there simply was no child and consequently no
one with whom to either succeed or fail as a parent.'

(46) Wayne Sumner, op. cit., p. 210: "A fetus is viable when it is equipped
to survive in the outside world. A being that is aware of, and can respond to,
its own inner states is able to communicate its needs to others. This ability is
of no use in utero but may aid survival in an extrauterine environment. A fetus
is therefore probably sentient by the conventional stage of viability (around the
end of the second trimester). Viability can therefore serve as a (rough) indicator
of moral standing.'

(47) M.A. Warren, "On the Moral and Legal Status of Abortion", in The
Monist, vol. 57, no. 1, p. 56: "...it is clear that genetic humanity is neither
necessary nor sufficient for establishing that an entity is a person. Some human
beings are not people, and there may well be people who are not human beings.
A man or woman whose consciousness has been permanently obliterated but who
remains alive is a human being which is no longer a person; defective human
beings, with no appreciable mental capacity, are not and presumably never will
be people; and a fetus is a human being which is not yet a person, and which
therefore cannot coherently be said to have full moral rights."

(48) Joel Feinberg, op. cit., p. 235: "Potential possession of C confers not
a right, but only a claim, to life, but that claim keeps growing stronger, requi-
ring ever stronger reasons to override it, until the point when C is actually
possessed, by which time it has become a full right to life. This modification
... coheres with the widely shared feeling that the moral seriousness of abortion
increases with the age of the fetus."

(49) Sumner, op. cit., p. 212: "A liberal view of early abortion in effect
extends a woman's deadline for deciding whether to have a child. If all abortion
is immoral, her sovereignty over that decision ends at conception. Given the
vicissitudes of contraception, a deadline drawn that early is an enormous practical
burden. A deadline in the second trimester allows a woman enough time to
discover that she is pregnant and to decide whether to continue the pregnancy.
If she chooses not to continue it, her decision violates neither her duties nor
any other being's rights. From the point of view of the fetus, the upshot of
this treatment of early abortion is that its life is for a period merely probatio-
ary; only when it has passed the threshold will that life be accorded protection.
If an abortion is elected before the threshold, it is as though from the moral
point of view that individual had never existed."

(50) M. Tooley, op. cit., p. 223: "They have been content to assert the
wrongness of killing any organism, from a zygote on, if that organism is a
member of the biologically defined pecies Homo Sapiens. But they have over-
looked the point that this cannot be an acceptable basic moral principle, since
difference in species is not in itself a morally relevant difference."

(51) R. Werner' op. cit., p. 257: "k is a human being if k belongs to a
spatiotemporal chain of identity m such that m is an instance of at least a portion
of the archetypal human spatiotemporal chain of identity l.

I is the archetypal human spatiotemporal chain of identity iff I is that spatio-
temporal chain of identity some portion of which is commonly recognized as
being paradigmatic of belonging to the human species and the rest of the chain 1 is such that there is no break in the chain 1 which is relevant to the human ontological status of the organism.'" 

(52) Richard Werner, "Abortion: The Ontological Status of the Unborn", in Social Theory and Practice, vol. 3, no. 2, Fall 1974, pp. 201-222: also in Ethics Theory and Practice, eds. Valasquez and Rostankowski, Prentice Hall, 1985, p. 252: "If k is related to k' such that k is the end result of the continuous growth of the organism k' and there is no break in this growth which is relevant to the ontological status of the organism, then k' shares the same ontological status as does k.'" 

(53) M. Tooley, op. cit., p. 223: "First, that there is a property, even if one is unable to specify what it is, that (i) is possessed by normal adult humans, and (ii) endows any being possessing it with a right to life. Secondly, that if there are properties which satisfy (i) and (ii), at least one of those properties will be such that any organism potentially possessing that property has a right to life even now, simply in virtue of that potentiality- where an organism possesses a property potentially if it will come to have it in the normal course of its development.'" 

(54) R.M. Hare, op. cit.: "The application of this injunction to the problem of abortion is obvious. If we are glad that nobody terminated the pregnancy that resulted in our birth, then we are enjoined not, ceteris paribus, to terminate any pregnancy which will result in the birth of a person having a life like ours.'" 

(55) Brandt, op. cit.: "Suppose... my brain would be removed to another body which could provide normal life, but the unfortunate result of the operation would be that my memory and learned abilities would be wholly lost, and that the forming of memory brain traces must begin again from scratch, as a newborn baby...the question is whether I would take an interest in the continued existence of myself in this sense. It seems to me that I would not..." 

(56) Michael Lockwood, "Der Warnock-Bericht: eine philosophische Kritik", in Um Leben und Tod, Suhrkamp Taschenbuch Wissenschaft, 1990, p. 239: "Ausserdem, je weiter der Embryo entwickelt ist, je weiter er schon auf dem Weg gelangt ist, irreversibel ein menschliches Wesen zu werden, um so gewichtiger wird sein Anspruch auf moralischen Schutz. Wenn ich richtig verstehe, fasst der Bericht den menschlichen Embryo so auf, dass er, moralisch gesehen,
ein erstes Segment eines kontinuierlichen Spektrums besetzt, das am anderen Ende Wesen umfasst, die unbestreitbar menschliche Wesen oder Personen sind. Der Grad moralischer Achtung, der dem sich entwickelnden Embryo und Foetus geschuldet wird, korrespondiert—grob gesprochen—mit seiner Entwicklungsstufe. Auch sehr fruhe menschliche Embryonen sind deshalb nach dieser Ansicht nicht moralisch vernachlässigbar."

(57) Richard Wasserstrom, cit., p. 119: "But there are no significant differences between newly born infants and fetuses which are quite fully developed and about to be born. What is more, there is no point in the developmental life of the fetus which can be singled out as the morally significant point at which to distinguish a fetus not yet at that point from one which has developed and about to be born. What is more, there is no point in the developmental life of the fetus which can be singled out as the morally significant point at which to distinguish a fetus not yet at that point from one which has developed beyond it and hence is now to be regarded as a person. Therefore, fetuses are properly regarded from the moment of conception as having the same basic status as an infant."


(59) Thomas Nagel, in Applied Ethics, ed. Peter Singer, Oxford University Press, "Death", P. 15-16: "But we cannot say that the time prior to a man's birth is time in which he would have lived had he been born not then but
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earlier. For aside from the brief margin permitted by premature labour, he could not have been born earlier: anyone born substantially earlier than he was would have been someone else. Therefore the time prior to his birth is not time in which his subsequent birth prevents him from living. His birth, when it occurs, does not entail the loss to him of any life whatever."

(60) Joel Feinberg, "The Potentiality Argument", in Matters of Life and Death: New Introductory Essays in Moral Philosophy, ed. Tom Regan, Random House, 1980, also in "A Question about Potentiality" in Moral Issues, ed. Jan Narveson, Oxford University Press, 1983, p. 235: "How, it might be asked, can a mere zygote be a potential person, whereas a mere spermatozoon or a mere unfertilized ovum is not? If the spermatozoon and ovum we are talking about are precisely those that will combine in a few seconds to form a human zygote, why are they not potential zygotes, and thus potential people, now?"

(61) R. M. Hare, op. cit.: "First, why is it supposed to make a difference that the genetic material which causes the production of the future child and adult is in two different places? If I have a duty to open a certain door, and two keys are required to unlock it, it does not seem to me to make any difference to my duty that one key is already in the lock and the other in my trousers."

(62) M. Tooley, op. cit., p. 227: "Let C be any type of causal process where there is some type of occurrence, E, such that processes of type C would possess no intrinsic moral significance were it not for the fact that they result in occurrences of type E. Then: The characteristic of being an act of intervening in a process of type C which prevents the occurrence of an outcome of type E makes an action intrinsically wrong to precisely the same degree as does the characteristic of being an act of ensuring that a causal process of type C, which it was in one's power to initiate, does not get initiated."

(63) M. Tooley, op. cit., p. 219: "It is a conceptual truth that an entity cannot have a particular right R, unless it is at least capable of having some interest, I, which is furthered by its having right R."

(64) Humber, op. cit.: "Thus, if Brandt is correct in holding that the existence of a "memory gap" will cause his moral code choosers to favor abortion, he must also hold that it will lead them to condone infanticide. And unless one is willing to accept the view that the killing of newborn babies is not even prima facie wrong, Brandt's analysis must be rejected out of hand."

(65) Nagel, op. cit., p. 15: "This approach also provides a solution to the
problem of temporal asymmetry, pointed out by Lucretius. He observed that no one finds it disturbing to contemplate the eternity preceding his own birth, and he took this to show that it must be irrational to fear death, since death is simply the mirror image of the prior abyss. That is not true, however, and the difference between the two explains why it is reasonable to regard them differently. It is true that both the time before a man’s birth and the time after his death are times when he does not exist. But the time after his death is time of which his death deprives him. It is time in which, had he not died then, he would be alive. Therefore any death entails the loss of some life that its victim would have led had he not died at that or any earlier point. We know perfectly well what it would be for him to have had it instead of losing it, and there is no difficulty in identifying the loser.”

(66) Mary Anne Warren, “On the Moral and Legal Status of Abortion”, in The Monist, vol. 57, no. 1, p. 56: “The concept of a person is in part a moral concept; once we have admitted that x is a person we have recognized, even if we have not agreed to respect, x’s right to be treated as a member of the moral community. It is true that the claim that x is a human being is more commonly voiced as part of an appeal to treat x decently than is the claim that x is a person, but this is either because “human being” is here used in the sense which implies personhood, or because the genetic and moral senses of ‘human’ have been confused.”

(67) M. Tooley, op. cit., p. 221: “One possibility, which will generally be sufficient, is that the individual have, at the time in question, a desire for its own continued existence. Yet it also seems clear that an individual’s continued existence can be in its own interest even when such a desire is not present. What is needed, apparently, is that the continued existence of the individual will make possible the satisfaction of some desires existing at other times. But not just any desires existing at other times will do… It is crucial that they be desires that belong to one and the same subject of consciousness.”

(68) Michael Tooley, “In Defense of Abortion and Infanticide”, in Moral Issues, ed. Jan. Narveson, Oxford University Press, 1983, p. 218: What is in a thing’s interest is a function of its present and future desires, both those it will actually have and those it could have. In the case of an entity that is not presently capable of any desires, its interest must be based entirely upon the satisfaction of future desires. Then, since the satisfaction of future desires
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presupposes the continued existence of the entity in question, anything which
has an interest which is based upon the satisfaction of future desires must also
have an interest in its own continued existence.''

(69) M. Tooley, op. cit., p. 226: ‘‘If there are any properties possessed by
normal adult human beings that endow any organism possessing them with a
right to life, then at least one of those properties is such that it is seriously
wrong to perform any action that will prevent some system, which otherwise
would have developed the property, from doing so.’’

(70) Dieter Birnbacher, Verantwortung fuer zukunftige Generationen, Reclam
Reclam 1988, p. 32: ‘‘Muss man jedoch- bei nuechterner Betrachtung- damit
rechnen, dass sich die eigenen Praeferenzen in spaeteren Lebensphasen nicht in
die bevorzugte, sondern in eine wenig nachvollziehbare, unliebsame oder sogar
rundheraus abgelehnte Richtung entwickeln werden, besteht eine Tendenz, den
Nutzen aus der Befriedigung dieser Praeferenzen in der Gegenwartsbewertung
weniger zu beruecksichtigen, als es der spaeteren Bewertung entspricht.’’