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## Philosophy and Theology: Reflections on Debating Dignity

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## PHILOSOPHY AND THEOLOGY

In her article “Abortion and Regret,” Kate Greasley considers pro-life arguments from the experience of women who regret their abortions.<sup>1</sup> An asymmetry exists between women with crisis pregnancies who give birth and women with crisis pregnancies who get abortions. Among women who abort, some do not regret their experiences but others experience profound regret. Among women who give birth, virtually none regret their choice and virtually all believe it was the right decision.

What is the moral significance, if any, of this asymmetry? In *The Ethics of Abortion*, I highlight this asymmetry in the context of pro-abortion arguments, such as the violinist analogy, that do not deny fetal personhood but assess the burdens of continuing a pregnancy.<sup>2</sup> According to Judith Jarvis Thomson, who first proposed the analogy, if you could save an unborn human being through just five minutes effort, it would be wrong not to do so. However, pregnancy is a huge imposition, imposing a substantial burden on the woman in question, so she is doing nothing wrong in detaching herself from the prenatal human being.

But as David Boonin points out in his book *A Defense of Abortion*, to set the analogy straight we must also consider the burdens and costs of abortion itself.<sup>3</sup> In this context, I cite in *The Ethics of Abortion* empirical and anecdotal evidence that the decision to have an abortion is often regretted, but the decision to give birth is

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1. Kate Greasley, “Abortion and Regret,” *Journal of Medical Ethics* 38.12 (December 2012): 705–711, doi: 10.1136/medethics-2012-100522.

2. Christopher Kaczor, *The Ethics of Abortion: Women’s Rights, Human Life, and the Question of Justice*, 2nd ed. (New York: Routledge, 2015), 176–184. See also Judith Jarvis Thomson, “A Defense of Abortion,” *Philosophy and Public Affairs* 1.1 (Fall 1971): 47–66.

3. David Boonin, *A Defense of Abortion* (New York: Cambridge University Press, 2003), 241.

almost never regretted.<sup>4</sup> Maya Angelou provides a striking example in her essay “The Decision that Changed My Life: Keeping My Baby.” She writes,

When I was 16, a boy in high school evinced interest in me, so I had sex with him—just once. And after I came out of that room, I thought, Is that all there is to it? My goodness, I’ll never do that again! Then, when I found out I was pregnant, I went to the boy and asked him for help, but he said it wasn’t his baby and he didn’t want any part of it.

I was scared to pieces. Back then, if you had money, there were some girls who got abortions, but I couldn’t deal with that idea. Oh, no. No. I knew there was somebody inside me. So I decided to keep the baby.

I’m telling you that the best decision I ever made was keeping that baby! Yes, absolutely. [My Son] Guy was a delight from the start—so good, so bright, and I can’t imagine my life without him. Years later, when I was married, I wanted to have more children, but I couldn’t conceive. Isn’t it wonderful that I had a child at 16? Praise God!<sup>5</sup>

To generalize, both continuing a pregnancy and having an abortion can significantly burden a woman. But one choice leads almost always to the joy Angelou describes, while the other may lead to serious regret. So, to correspond to the reality of crisis pregnancy, the violinist argument must take into account the certain and possible burdens of a crisis pregnancy whether abortion is chosen or not.

Greasley’s paper ignores the context of my assessment of the violinist defense of abortion. However, she notes, quite properly, that the emotion of regret does not always accurately track the moral impermissibility of an action. Someone might feel regret for an action that is morally permissible.<sup>6</sup> For example, I may seriously regret not turning out for the cross-country team my freshman year of high school, but this is not a sign that my decision was ethically wrong. Likewise, the absence of regret is not necessarily a sign that an action was permissible. I do not regret everything I did wrong my freshman year (in part because I do not remember everything I did wrong, and I have no feelings about deeds I have forgotten). Yet the fact that I lack the emotion of regret is no sign that my immoral actions were not in fact wrong.

Moreover, as Aristotle points out, a virtuous person will take pleasure and experience pain in different actions than will a vicious person.<sup>7</sup> The virtuous person delights in doing virtuous actions, but the vicious person delights in doing vicious actions and suffers in doing virtuous ones. If the vicious person is compelled to do what is right, say by fear of public shame, he does not enjoy performing just actions. Rather it pains the vicious person to do what it would give joy to the virtuous person to do. In contrast, the virtuous person suffers in doing a vicious action (perhaps because she has a rare moment of weakness of will). So pain, such as regret for a

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4. Kaczor, *Ethics of Abortion*, 181–184.

5. Maya Angelou, “The Decision That Changed My Life: Keeping My Baby,” *Family Circle*, October 8, 2001, quoted in Steven Ertelt, “Maya Angelou,” *LifeNews.com*, May 28, 2014, <http://www.lifenews.com/>.

6. Greasley, “Abortion and Regret,” 707.

7. Aristotle, *Nicomachean Ethics* 1173b20–22.

choice, and pleasure, such as satisfaction in a choice, do not determine the rightness or wrongness of the choice, in part because the character of the agent influences what sort of actions give pleasure or pain.

Where does this leave us in terms of the permissibility of abortion? On Aristotle's view, a virtuous person will be pained at doing an unjust action but a vicious person will not. So if abortion is impermissible, the unjust killing of an innocent human being, it is the kind of action for which an otherwise virtuous person would likely experience serious regret. On the other hand, a vicious person would likely not experience serious regret for such a deed. If Aristotle's analysis of character is correct, and if abortion is an unjust action, his analysis makes sense of the disparate experiences of women who choose abortion.

On the other hand, if abortion is ethically permissible, we can still explain the difference between the women who seriously regret an abortion and those who do not. In a just war, soldiers may licitly use violence to stop the aggressive actions of enemy soldiers. This use of violence, though ethically permissible, may nevertheless lead to post-traumatic stress syndrome and other potentially devastating emotional repercussions. These negative emotions do not, however, make the use of force impermissible in a just war.

If we adopt the violinist defense of abortion, the burdens of pregnancy and the burdens of abortion are relevant for determining whether abortion is ethically permissible. The burdens and benefits of an action include all the certain and possible consequences that accompany and follow the action. Greasley suggests that some possible consequences should be excluded from consideration: "It is clear that the question of what is best to do is still one that [the person considering abortion] must grapple with at the time of the decision, and that she cannot be helped along by the understanding that she would, in any event, ultimately be unable to regret choosing motherhood."<sup>8</sup> But surely, if we are to compare the burdens and benefits of two courses of action, the fact that one course promises freedom from serious emotional disturbances is at least one important factor in making the decision. How could it be totally irrelevant unless we are to simply dismiss the importance of possible future consequences altogether? On what basis do we select some possible future consequences as relevant but dismiss others as irrelevant?

While it is true that the best choice may not be the choice that precludes all regret, it is also true that potential regret cannot be ignored if we are to make a properly informed judgment. It is, therefore, a non sequitur to claim that "using the possibility or likelihood of regrets to deter women from abortion is rationally unfounded at best, and at worst, emotionally manipulative."<sup>9</sup> Surely, we cannot choose wisely by ignoring relevant factors, including the emotional effects of the choice on all involved.

Consider the following case: A woman who is pregnant for the first time chooses to have an abortion. Later she tries to get pregnant, but despite years of effort is never able to conceive again. She may come to regret her abortion, since the pregnancy she

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8. Greasley, "Abortion and Regret," 711.

9. *Ibid.*

ended turned out to be her only pregnancy. Suppose this happens to many women, and numerous support groups are formed and self-help books written to help those suffering from abortion-induced sterility. To make a sound decision about continuing a pregnancy, surely a woman should take into account, even aside from concerns about prenatal life, the fact that abortion makes many women sterile. If a woman knew with certainty that this pregnancy was her first and her last, this fact might determine whether abortion was (all things considered) really in her overall, long-term best interest. Similarly, if a woman knew with certainty that an abortion would cause her serious emotional disturbance for years to come, it would be absurd for her not to take this fact into account. What is more or less likely to happen is relevant to the decision.

The prolife view does not, of course, hinge on these factors. The permissibility of intentionally killing a human being prior to birth does not depend on the emotional reactions of the mother, father, abortionist, or anyone else. Intentionally killing innocent human beings is wrong, and the wrongness does not hinge on anyone's emotional reactions. In the context of the violinist argument, however, the actual and the possible burdens and the benefits of abortion must be compared with the actual and possible burdens of the alternative. Thomson's original argument simply ignores the actual and possible costs of abortion. The interests of women and their informed consent for the procedures cannot be secured by ignoring the experience of thousands and thousands of women who experience searing regret following their abortions. Moreover, if abortion is unjust, it is never in the moral interests of someone to have one.

In their article "Morally Relevant Potential," David Hershenov and Rose Hershenov also examine the ethics of abortion by exploring another way to ground fetal moral worth.<sup>10</sup> First, they distinguish between *something being in an individual's interest* on the one hand and *someone taking an interest in something* on the other. Learning to read is in a young child's interest, but a young child may not take an interest in learning to read. Put in other terms, it is good for a young child to learn to read (it is in her interest), but the child may not recognize that literacy is good for her and so take no interest in learning to read. Similarly, eating "broccoli is in a child's interest, but he is not interested in it."<sup>11</sup> Living things like plants, animals, and human beings have an interest in health and physical flourishing. Some things are good for them (such as proper nourishment), and other things are bad for them (such as disease and premature death). How does this apply to the human being in or ex utero?

Our contention is that the *morally relevant sense of potential is determined by what is healthy development or proper functioning for things of that kind in their design environment*. The potential of a healthy human fetus is to develop a mind of great cognitive and affective abilities that will enable it to enter into various rewarding relationships with others and exercise a range of cognitive

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10. David B. Hershenov and Rose J. Hershenov, "Morally Relevant Potential," *Journal of Medical Ethics* 41.3 (March 2015): 268–271.

11. *Ibid.*, 268.

skills that enable it to think and act in valuable ways unlike any other kind of living being. So its potential means that it will be greatly harmed if deprived of that valuable future.<sup>12</sup>

The healthy development of a plant extends only to activities such as growth and assimilation of nutrition. By contrast, the healthy development of a human being also includes such goods as friendship, knowledge, and personal integrity. The Hershenovs write, “Health is a *necessary* condition for flourishing and *constitutive* of a good deal of valuable well-being in a healthy person. The living *always* have an interest in health-produced flourishing. All flourishing depends upon health being present (to some) degree, and every living being has an interest in health at every stage of its life, including its fetal stages.”<sup>13</sup> Morally relevant potential is, as they note, determined by proper functioning.

The Hershenovs consider the objection, raised by Michael Tooley and Peter Singer, that a prenatal or newborn human being cannot have intrinsic value based on his or her potential because such a view leads to absurdities: If potentiality invests an individual with basic rights, then all of our skin cells have a right to life, since all our skin cells have the potential, via cloning, to become adult human beings. If a rationality serum were invented, every kitten would have the potential to become rational and would thereby have a right to life as well. Replies to these kinds of objections typically distinguish between the intrinsic potential, or activity potentiality, enjoyed by the prenatal or newborn human being and the merely extrinsic potential, or passive potentiality that could be gained by a skin cell through cloning or by a kitten by means of a rationality serum.

The Hershenovs’ understanding of potential suggests an alternative response to the objections raised against basing a human fetus’s right to live on his or her potential. Since the proper functioning of a kitten does not include functioning rationally, the example given by Tooley is irrelevant. Similarly, the potential of a skin cell to become a person through cloning is irrelevant, since the proper functioning of a skin cell does not include developing into a rational being. So the distinction between intrinsic and extrinsic potentiality is not needed to defend the right to live of human beings in utero, nor is the distinction between active and passive potentiality needed.<sup>14</sup>

Is this account compatible with the equal basic worth of all human beings? The Hershenovs write, “Alternatively, the harm may be as great, if not greater, for the younger fetus or newborn, but they have less intrinsic value, and so their interests matter less than older children with more value.”<sup>15</sup> It is true that a newborn has less intrinsic value than an older child? On one view, all human beings in whatever stage of development (fetal, neonatal, toddler, adult, senior) have not only intrinsic value

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12. *Ibid.*, 269, original emphasis.

13. *Ibid.*, original emphasis.

14. The Hershenovs view these distinctions as problematic in defending the rights of human beings prior to birth, but their echoing of the critics of others I’ll leave unexplored for now.

15. Hershenov and Hershenov, “Morally Relevant Potential” 270.

but equal intrinsic value. But perhaps this claim of equality is misplaced. Suppose for the sake of argument that twenty-four-carat gold has intrinsic value. You can certainly imagine greater or lesser quantities of twenty-four karat gold. Or let's say the virtues have intrinsic value. Virtues are not merely good as a means but splendid as ends in themselves. Supposing that the thesis of the unity of the virtues is false, you could imagine one person who had only the virtue of courage and another person who had more intrinsic value because he had both the virtue of courage and the virtue of justice. So the death of the courageous person would be less harmful than the death of the courageous and just person, since the latter person had more intrinsic value. This conclusion is compatible with holding that all human beings have equal basic worth, since in addition to this equal basic worth we would add other factors of value such as having the virtues.

Further disambiguating the term "interests" is Peter Koch's article "Ambiguous Interests: Maternal Desires and Fetal Interests."<sup>16</sup> He distinguishes between three senses of the term, illustrated by the following examples: (1) It is in the fetus's best interest that the mother not smoke while pregnant. (2) Francesca revealed her interest in studying art history in Florence. (3) Shane expressed an interest in suicide to the clinician, knowing that he would be admitted to the hospital and fed.<sup>17</sup>

The first example is of implied interests, the realization of which promotes the welfare of the one with the interest. Although no fetus knows about fetal alcohol syndrome, every human being in utero has an implied interest in avoiding fetal alcohol syndrome. The second example is of cognitive interests in which an agent has desires or preferences, which can be either expressed (if they are communicated to others) or not expressed (if they are not revealed to others). Cognitive interests may be in contradiction to implied interests, as when a drug addict desires to get another fix (cognitive interest), even if the fix will prompt a collapse of recovery and a huge setback for the addict's long-term health and happiness (implied interests). The addict on the verge of death may not have a cognitive interest in sobriety, but he has an implied interest in sobriety. The third example is "inauthentic interests," in which expressed interests contradict cognitive interests. In Koch's example, Shane does not have a cognitive interest in suicide, but he makes the threat of suicide simply to secure food from the hospital. Other forms of inauthentic interests include the interests expressed by those who are not in a sound state of mind, such as toddlers and the intoxicated.

In this article, Koch critiques the view that the pregnant mother always is more knowledgeable than others about the implied fetal interests. Even though there is always a physical bond between mother and child, this physical unity does not give the expectant mother knowledge about what serves the implied interests of her prenatal son or daughter. Use of a particular medical treatment might be in the implied fetal interests, but unless the mother also happens to be a physician and happens to

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16. Peter Koch, "Ambiguous Interests: Maternal Desires and Fetal Interests," *American Journal of Bioethics* 16.2 (2016): 31–33.

17. *Ibid.*, 32.

know the medical condition of her son or daughter in utero, the mother would not be aware of what is medically indicated and in her child's implied interests.

Another way maternal interests and fetal interests might be related is that fetal interests are the same as the women's cognitive interests. "This would imply that concern about the fetus is only a concern about the desires of the mother for the fetus, whatever these desires may be—even for the death of the fetus if she does not want to give birth" or for the disability of the fetus if she wants to continue heavy drug use throughout the pregnancy.<sup>18</sup> Early death or grave disability is obviously not in the implied fetal interest, so we cannot reduce fetal interests to maternal cognitive interests. If interests ground moral worth, then implied fetal interests can ground fetal worth.

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18. *Ibid.*