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## Philosophy and Theology: Revisiting the Violinist Argument

Christopher Kaczor

Loyola Marymount University, [Christopher.Kaczor@lmu.edu](mailto:Christopher.Kaczor@lmu.edu)

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## PHILOSOPHY AND THEOLOGY

The violinist analogy of Judith Jarvis Thomson continues to generate scholarly reflection. In her essay, “Rethinking Unplugging,” Angela Knobel argues that typical critiques of the violinist argument fail, so those who oppose abortion should reply that we do not have a right to unplug ourselves from the violinist, and so too a woman does not have the right to abortion. She also takes aim at some critiques of the violinist argument, finding them deficient. She writes, “Opponents of abortion typically concede that one can unplug oneself from the violinist, but argue that the case of the violinist is disanalogous in some essential way from the case of pregnancy due to rape. I argue that this strategy is unsuccessful: even if Thomson’s thought experiment is not analogous in the typical case, one can construct cases of pregnancy which *are* analogous to the case of the violinist.”<sup>1</sup> How, then, do these critiques of the violinist argument fail?

Knobel writes, “Even if Thomson’s thought experiment is successful—as she herself acknowledges—it only establishes the legitimacy of abortion in cases where the woman becomes pregnant without her consent, such as rape and incest.”<sup>2</sup> It is not clear to me that this interpretation of Thomson is accurate if we consider not just the violinist analogy but also the burglar analogy. Thomson argues that in an unwanted pregnancy, the fetus exists in the woman’s body much as a burglar exists in a house. The fact that a homeowner did something like leave the door open, or forgot to do something like lock the door, does not give the burglar a right to stay in the house. Similarly, Thomson argues, the fact that the woman did something like have sex voluntarily, or forgot to do something like use adequate contraception,

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1. Angela Knobel, “Rethinking Unplugging,” *Journal of Medicine and Philosophy* 44.6 (December 2019): 699, emphasis original, doi: 10.1093/jmp/jhz026.
  2. Knobel, “Rethinking Unplugging,” 700.

does not give the fetus a right to use her body to stay alive.<sup>3</sup> It may be very foolish to leave your door unlocked, and yet you may expel a burglar if one enters your home. Similarly, it is foolish (if you want to avoid pregnancy) to have sex without contraception during the fertile part of the cycle, but according to Thomson, that would not change in the least the right of the pregnant woman to detach herself from the fetal violinist.

One way critics of the violinist analogy object is by contrasting gentle “detaching” from the violinist to the actual methods of abortion. Knobel is right in noting, “No serious scholar who opposes abortion would consider death by exposure an acceptable alternative to current abortion practices. Indeed, if *method* alone were the main objection to abortion, disputes about it could easily be resolved. One could simply require that all fetuses be removed alive and intact, so that the fetus’s death occurred only after it had been ‘unplugged’ from the mother.”<sup>4</sup>

Death by exposure is, on my view, different than the intentional killing that takes place in actual abortions. What is relevant, from a moral point of view, is not simply the effect of death but whether this effect is intended as a means or as an end. So, death by exposure could be intentional killing, and probably is intentional killing in most cases, but it is not necessarily intentional killing. Death as a side effect, for a serious reason, is permissible according to double-effect reasoning. So, if a cancerous uterus is removed from a woman in order to save her life, and the prenatal being ends up dying from exposure following the removal, this death is not necessarily intended.

Knobel also endeavors to show the failure of the objection to the violinist argument from the special relationship that exists between parents and children. She imagines a case in which a frozen embryo is implanted in her without her consent. In this case, Knobel writes, “Whatever special obligations a mother does or does not owe her biological child, this child is not *my* biological child. I owe this particular embryo no more and no less than I would owe the violinist.”<sup>5</sup> If she is not the biological mother, then she does not have the duties of a biological mother.<sup>6</sup> It is true that if the frozen embryo does not come from her egg, then she is not the biological mother. However, if the frozen embryo is implanted in her uterus, then she is the gestational mother or the surrogate mother. And in virtue of this maternal relationship, she has special responsibilities.

In his essay “My Body, Not My Choice,” Perry Hendricks takes on David Boonin’s defense of the violinist argument. He summarizes Boonin’s argument in the following way:

1. Being a person does not give one the right to use another person’s body, even if it is needed for survival (per *Mcfall vs. Shimp*).

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3. Judith Jarvis Thomson, “A Defense of Abortion,” *Philosophy and Public Affairs* 1.1 (Autumn 1971): 58–59.

4. Knobel, “Rethinking Unplugging,” 702, emphasis original.

5. Knobel, “Rethinking Unplugging,” 704, emphasis original.

6. On the responsibilities of a biological parent, see Melissa Moschella, “Rethinking the Moral Permissibility of Gamete Donation,” *Theoretical Medicine and Bioethics* 35.6 (December 2014): 421–440, doi: 10.1007/s11017-014-9314-4.

2. Therefore, even if the fetus is a person, it does not have the right to use its mother's body, even if it is needed for survival.
3. The state should only coerce *A* into letting *B* use her body if *B* has a right to *A*'s body.
4. Therefore, the state should not coerce women into not having abortions, even if fetuses are persons.<sup>7</sup>

Hendricks seeks to undermine the transition from 1, which is true, to 2, which he rejects. Here is a case that calls into question the truth of the claim that the young human being does not have a right to use someone else's body to survive. Let us call the case "Sally in the Storm." Hendricks writes,

Sally is 9 months pregnant. Unfortunately—as occasionally happens—she doesn't know that she's pregnant. One day, while out hiking, a snowstorm unexpectedly hits, and she is forced to take shelter in a cabin. To make matters worse, she goes into labor while stuck in the cabin. The birth goes well, and her baby is healthy. Sally is stuck in her cabin for 7 days before she is finally dug out. Rescuers find her alive and well, but her infant is dead due to starvation—Sally did not feed her infant, despite having ample food for herself, and producing ample breastmilk (there was no baby formula available in the cabin).<sup>8</sup>

Legally speaking, if Sally does not feed the baby, she would be guilty of a crime, perhaps felony child neglect or something more serious. Morally speaking, she would be guilty also of neglecting to do something she had a moral obligation to do. However, someone might object that Sally took on this responsibility by not getting an abortion earlier. She (so the argument goes) could have known and should have known that she was pregnant, so the ignorance of her pregnancy does not excuse.

So, let us consider a different case: "Steve in the Cabin." Steve meets his girlfriend from last summer, Kristi, at a remote mountain cabin. Before he arrives, she texts that she has a big surprise for him. When he gets to the cabin, she says, "Surprise! You are a dad! I gave birth to your daughter Emma last week." Kristi points to a crib in the corner. Emma is sleeping soundly. Steve is not happy with this news, and the couple fights. Steve goes to another room in the cabin to recompose himself. When he comes back out of the room, he realizes that Kristi has left him alone with baby Emma. Unfortunately, moments later a mudslide hits, washing out the road to the remote cabin entirely. Steve is stuck in the cabin for seven days before he is finally dug out. Rescuers find him alive and well, but his infant daughter is dead due to starvation. Steve did not feed his daughter despite having ample baby formula that Kristi had brought to the cabin.

Did Steve do something wrong? Legally speaking, he is guilty of child neglect at the least. Morally speaking, he had an obligation to provide what his minor dependent daughter needed in order to survive. In order to feed his daughter, he would have had to use his body to make and then to feed her bottles of formula. He had this obligation despite not agreeing to it, just as deadbeat dads have an obligation to use their bodies to provide child support payments despite, in some

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7. Perry Hendricks, "My Body, Not My Choice: Against Legalised Abortion," *Journal of Medical Ethics*, e-pub May 18, 2021, doi: 10.1136/medethics-2020-107194.

8. Hendricks, "My Body, Not My Choice."

cases, not agreeing to become fathers. It would seem that the cases of “Sally in the Storm” and “Steve in the Cabin” make clear that we can have an obligation to use our bodies to save the lives of our own children. Of course, these analogies work because most people hold that a newborn baby is a person. But recall that the violinist analogy for abortion is supposed to work on the supposition that the prenatal human being is a person.

In his essay “Is Pregnancy Really a Good Samaritan Act?” Bruce Blackshaw also takes aim at the violinist argument. In her famous essay, Thomson explicitly cites the parable of Jesus about the Good Samaritan and argues that although a good Samaritan or splendid Samaritan would give support to the prenatal person, a minimally decent Samaritan may get an abortion. We cannot have a duty to do what is supererogatory, above and beyond the call of duty. We would be a splendid Samaritan to give all our possessions to the poor, but we can be a minimally decent Samaritan if we do not give all our possessions to the poor. So too a woman is a splendid Samaritan if she brings a crisis pregnancy to term, but if she gets an abortion, that is compatible with the identity of a minimally decent Samaritan.

In this essay, Blackshaw argues that the Good Samaritan story properly understood actually leads to the conclusion that abortion is impermissible. Blackshaw situates his interpretation of the parable both in its historical context as well as in the history of interpretation, drawing on readings from St. Augustine of Hippo and others to illuminate the text. Blackshaw notes that “the rabbinic principle of *pikuach nefesh* instructs Jews that preserving human life takes precedence over almost everything else.” If we read the text of the Gospel passage carefully, we are led to the conclusion that “we can therefore define a Good Samaritan act as one that is extraordinary and self-sacrificial, going beyond one’s obligations. It involves helping someone you may despise or who despises you, it requires your time and resources, and potentially might cost your life. As Thomson suggests, only a Good Samaritan would assume responsibility for her violinist being plugged into his body for nine months.”<sup>9</sup>

Blackshaw point out that Thomson turns the parable on its head:

If we acknowledge the Bible as having normative force in Christian ethics, it seems difficult to escape the implication that Christians are obliged to perform Good Samaritan acts to those around us, particularly given the direct exhortation by Jesus to “go and do likewise” (Luke 10:37, ESV).

Thomson, however, *subverts* the parable, arguing that Good Samaritan acts are *supererogatory*—the opposite conclusion to the accepted teaching of the parable throughout church history. Moreover, she appropriates the parable in an egregious manner to justify not only declining to provide aid, but permitting a woman to terminate the life of her fetus—an act prohibited even in very early Christian writings. This seems to be the antithesis of the parable’s message.<sup>10</sup>

Thus, Thomson’s use of the parable of the Good Samaritan is utterly contrary to the story’s true meaning. It is an abuse of the story of the tortoise and the hare to

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9. Bruce P. Blackshaw, “Is Pregnancy Really a Good Samaritan Act?” *Christian Bioethics* 27.2 (August 2021): 162, doi: 10.1093/cb/cbab004.

10. Blackshaw, “Is Pregnancy Really a Good Samaritan Act?” 162, emphasis original.

use it to justify laziness. So too it is an abuse of the Good Samaritan story to use it as a way of justifying not helping others in need.

Blackshaw also argues that “the parable of the Good Samaritan endures because the Samaritan performed an *extraordinary* act of self-sacrifice. Continuing with an unexpected pregnancy does not qualify as extraordinary—it is something that millions of women do every year and is *unremarkable*. A parable of the Unexpectedly Pregnant Samaritan would not be compelling. The standard of a Good Samaritan act is higher, despite the considerable sacrifices involved in pregnancy.”<sup>11</sup> This analysis is problematic. An extraordinary act is not best understood as an act that is numerically rare. In World War II, millions of men died protecting those they loved, but the fact that millions died does not diminish the gravity of their sacrifice. By any reasonable standard, the sacrifice of a pregnant woman in giving life is significant, costly, and difficult despite not being numerically rare. This is particularly true in crisis pregnancies.

Blackshaw then connects his analysis to Christian identity. Jesus calls his disciples to be good Samaritans, and “if we accept the working assumption of Thomson’s argument that the fetus is a person with full moral status, then the fetus is its mother’s neighbor—her closest neighbor.” Blackshaw adds, “The allegorical interpretation of the parable only strengthens this implication—Jesus, as the Samaritan, went so far as to sacrifice his own life to show us mercy—and like a pregnant woman, he was (and is) uniquely equipped to do so.”<sup>12</sup> Blackburn hastens to add that the duty of the pregnant woman to be a good Samaritan does not eliminate the duty of all people of good will to be good Samaritans to both the human beings in utero and the women who experience crisis pregnancies. The acts of mercy toward those in need include these two kinds of people. What we should do, of course, depends upon numerous circumstances and includes our own personal possessions such as talents, time, and financial resources.

Finally, in her essay, “Fetuses, Orphans, and a Famous Violinist,” Gina Schouten echoes the common feminist sentiment that “in order to achieve full equality in workplaces, politics, and intimate relationships, women must be able to decide whether and when to have children; and in order to secure their bodily integrity, women must be able to end pregnancies they do not want to continue.”<sup>13</sup> Teresa Collett, Helen Alvaré, and Erika Bachiochi question this argument from equality in a brief filed with the Supreme Court on behalf of some 240 women and various pro-life feminist organizations and feminist scholars. These women point out,

Data regarding women’s participation in the labor market and entrepreneurial activities, as well as their educational accomplishments, professional engagement, and political participation, reveals virtually no consistent correlation with abortion rates or ratios. . . . Instead, the data suggest some correlation between abortion, the feminization of poverty, and women’s declining levels of happiness, including fewer and less satisfying long-term committed relationships

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11. Blackshaw, “Is Pregnancy Really a Good Samaritan Act?” 164, emphasis original.

12. Blackshaw, “Is Pregnancy Really a Good Samaritan Act?” 165.

13. Gina Schouten, “Fetuses, Orphans, and a Famous Violinist: On the Ethics and Politics of Abortion,” *Social Theory and Practice* 43.3 (July 2017): 637, doi: 10.5840/soctheorpract20178417.

with partners and the birth of fewer children than women desire by the end of their reproductive lives. There is also some evidence that the *Casey* plurality's imprimatur on a male normative experience of reproduction as the model for economic and social participation has retarded meaningful accommodation of pregnancy and motherhood in the workplace and other spheres of society.<sup>14</sup>

Elsewhere, Bachiochi points out that many feminist defenses of abortion make a dubious assumption: the male mode of reproduction is the ideal which female bodies need to emulate if they are to have equality.<sup>15</sup>

The argument from equality also fails to distinguish between equality of opportunity and equality of outcome. It is illegal in the United States to discriminate against women on the basis of pregnancy. Women, including pregnant women, enjoy equality of opportunity according to the law. The remedy for failure to provide equality of opportunity is not abortion, but legal action against those in violation of the law. By contrast, equality of outcome is not legally required, nor should it be. As Thomas Sowell has argued, "If there is not equality of outcomes among people born to the same parents and raised under the same roof, why should equality of outcomes be expected—or assumed—when conditions are not nearly so comparable?"<sup>16</sup> In his book *The Blank Slate*, Steven Pinker points out that on average, men and women have different interests.<sup>17</sup> Given these different interests, men and women will be drawn to different professions. Generally, men are more interested than women in high-risk, high-reward professions such as deep sea fishing, coal mining, and logging. Indeed, recent research has found that these differences on average between men and women do not decrease in countries with greater opportunities for women.<sup>18</sup> So, equality of outcome is an unrealistic expectation—with or without termination abortion.

There is at least one more reason to reject the argument for abortion from equality. Evidence suggests that women who become mothers tend to earn less than women who do not become mothers. So, if we took the argument from equality as a justification for killing offspring, we would conclude that not only pre-birth abortion but also post-birth abortion is necessary to achieve equality of outcome. Moreover, the argument for abortion from equality ignores the equal basic rights of the individual who gets killed, which, if we are concerned about equality of opportunity or outcome, is a signal concern.

CHRISTOPHER KACZOR

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14. Brief for 240 Woman Scholars and Professionals, and Prolife Feminist Organizations as *amici curiae* for petitioners, at 6–7, July 19, 2021, *Dobbs v. Jackson Women's Health Organization*, Supreme Court of the United States, no. 19-1392.
  15. Erika Bachiochi, *The Rights of Women: Reclaiming a Lost Vision* (Notre Dame, IN: University of Notre Dame Press, 2021).
  16. Thomas Sowell, *Discrimination and Disparities* (New York: Basic Books, 2019), 7.
  17. Steven Pinker, *The Blank Slate: The Modern Denial of Human Nature* (New York: Penguin Books, 2003), 343–350.
  18. Lingshan Zhang et al., "Are Sex Differences in Preferences for Physical Attractiveness and Good Earning Capacity in Potential Mates Smaller in Countries with Greater Gender Equality?" *Evolutionary Psychology* 17.2 (April 2019), 1474704919852921, doi: 10.1177/1474704919852921.