



PHILOSOPHY AND THEOLOGY

A number of philosophers have offered *reductio ad absurdum* arguments against the pro-life view. This reflection considers several of these attempts to show that the belief that every human being should be protected by law and welcomed in life leads to absurd conclusions that even the most consistent pro-life advocate would likely reject.

In her article “Beyond Abortion: The Implications of Human Life Amendments,” Bertha Alvarez Manninen offers several such arguments. The first is that a criminalization of abortion would lead to a criminalization of some forms of contraception: “For example, Keith Mason, president of Personhood USA, has acknowledged that regarding embryos and fetuses as persons would lead to the criminalization of certain contraceptives, such as the birth-control pill, Plan B (the ‘morning-after pill’), and intrauterine devices (IUDs), if they function to ‘kill a unique human individual.’ Another spokesperson for Personhood USA, Walter Hoye, agreed that ‘any form of birth control that “ends a human life” will be impacted by the measure.’”¹ These consequences do not necessarily follow. If abortion is defined as the intentional killing of a human being before or during birth, then a criminalization of abortion would not criminalize the use of contraception, which sometimes has a foreseen but unintended side effect of ending embryonic life. Second, a law criminalizing cases in which the embryo fails to implant would be impossible to enforce, since we have no way of knowing, for example, whether in a particular case a pill or an IUD functioned as an abortifacient or as contraceptive. Third, we legally allow many things that we know with certainty will lead to the deaths of human beings as side effects, such as freeways leading to traffic deaths, medical care leading to deaths through iatrogenic illness, and higher education, which is associated with higher

¹ Bertha Alvarez Manninen, “Beyond Abortion: The Implications of Human Life Amendments,” *Journal of Social Philosophy* 43.2 (Summer 2012): 142.

rates of suicide. So holding that the human embryo is a person does not necessarily lead to a ban on any form of birth control that can have an abortifacient side effect.

A second *reductio ad absurdum* argument is if abortion is really the killing of millions of innocent children, then vigilante justice is called for, specifically the killing of abortionists. After all, Manninen reasons, if we had a chance to kill Hitler, we would be justified in doing so. So if abortion really is the intentional killing of an innocent human being prior to birth, Manninen would hold that we would be justified in using violent action to stop abortion.

In fact, it is not the pro-life view but rather Manninen's view that is inconsistent. Let us assume for the sake of argument that the second US–Iraq war is unjust. Manninen holds that vigilante justice against President George W. Bush is not justified, since he did not personally kill. By parity of reasoning, it would not be justified to kill Hitler, since Hitler was not personally involved in the unjust killing in World War II but merely authorized it.

Let us adjust the analogy slightly. Suppose a war protestor is convinced that the second Iraq war is unjust. The war protestor knows a soldier on temporary leave from Iraq who was directly involved in killing and who, on return to war, will be involved in the killing again. If the war is unjust, then whatever killing is done cannot be justified as part of a just war. But if the war is unjust, would vigilante justice killing this soldier be permissible? Surely not. Just as there is no inconsistency in opposing an unjust war and not killing soldiers who engage in such a war, so too there is no inconsistency in opposing abortion and not killing abortionists. Indeed, there is a deep consistency. Both the opponent of abortion and the war protestor act on the same principle: violence is not the proper way to resolve social problems, even social problems that result in the death of innocent people.

But Manninen continues:

Killing a president who initiated an unjust war that is leading to the death of innocents is unlikely to really accomplish anything; it will not stop the death of more innocents. If anything, such a murder could only be carried out for vengeful purposes, not to put an immediate stop to the death of innocent people. In contrast, killing an abortion doctor may possibly result in the immediate salvation of at least a few fetuses. From the perspective of someone engaging in vigilante justice, then, it may be more defensible to kill someone if it results in the immediate salvation of innocents than killing someone whose death would have very little effect on saving the life of innocents.²

This reasoning also does not stand up to closer examination. For example, we can never know with certainty whether killing Hitler earlier would have prevented the Holocaust and other atrocities of World War II from happening. By contrast, we have abundant evidence that when abortionists have been killed in the United States, abortions continue to take place. Each year in the United States alone, there are more than a million abortions and innumerable abortion providers. In the event that a particular abortionist is not available for whatever reason, women seeking

² *Ibid.*, 156.

abortion can, and do, simply find another provider. Killing abortionists does not stop the death of more innocents.

Further, intentionally killing an abortionist is, at least on St. Thomas Aquinas's view, intrinsically evil, for only the officer of the law may act against a lawbreaker who has this intention to kill. Even considered circumstantially, the act is wrong as it retards the progress of the pro-life movement, which is inevitably cast in the worst light in such attacks. Indeed, in terms of effective efforts to reduce abortion, killing abortionists is actually counterproductive.

Manninen issues a challenge: to "delineate the necessary conditions that a situation must meet in order to render violent means of defending innocent life permissible." This challenge is in a sense easy to meet and in a sense hard to meet. It is easy to meet in that one may use violent action to defend innocent human life when such an action is not a matter of vigilante justice. However, what is or is not vigilante justice is much harder to specify. Clearly, killing Hitler is not vigilante justice but justified revolution against a tyrant. And assassinating a sitting President or a soldier because you judge a war he is waging to be unjust is vigilante justice. The advocate of the pro-life cause need not spell out the necessary and sufficient conditions of vigilante justice to recognize that a private citizen's killing another person engaged in legally protected action is an example of vigilante justice.

In parts 1 and 2 of "The Substance View: A Critique," Rob Lovering endeavors to provide *reductio ad absurdum* arguments against the substance view—the view that the basic moral status of the human embryo is equal to that of the human newborn and human adult.³ He examines various previous attempts to show that no one really thinks that human embryos have basic status. Lovering examines the replies to these objections from Robert George, Christopher Tollefsen, Patrick Lee, and Francis Beckwith and argues that these rejoinders fail. Lovering also repeats assertions that defenders of the substance view hold that it is just as wrong to kill the human fetus as it is to kill the standard adult, the reversibly comatose adult, the suicidal adult, and the standard human infant.⁴ But defenders of the substance view need not endorse that killing a human fetus is *just as wrong* as killing human beings in these other cases. Indeed, defenders of the substance view need not even endorse the view that early abortion is just as bad as late abortion, as Andrew Peach has pointed out in his article "Late- vs. Early-Term Abortion."⁵

Indeed, one case of unjust killing is seldom just as wrong as another case. For example, unjust killing in which the killer also inflicts serious pain on the victim is worse than unjust killing in which the killer painlessly kills the victim. So, on the

³ Rob Lovering, "The Substance View: A Critique," *Bioethics* 27.5 (June 2013): 263–270; and "The Substance View: A Critique (Part 2)," *Bioethics*, published online September 19, 2012.

⁴ Lovering, "Substance View: A Critique."

⁵ Andrew Peach, "Late- vs. Early-Term Abortion: A Thomistic Analysis," *The Thomist* 71 (January 2007): 113–141. See also Christopher Kaczor, *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice* (New York: Routledge, 2011), 87–89.

supposition that abortions early in pregnancy do not cause fetal pain though other abortions might,⁶ cases of unjust killing in which pain is inflicted (as in the typical murder) would be worse. Second, the easier it is to do the right thing, the worse it is to do the wrong thing. But refraining from killing an innocent human being *ex utero* is easier, other things being equal, than continuing an unwanted pregnancy. Third, it is more plausible for an agent seeking abortion to misunderstand the moral status of the human fetus than for a killer to be inculpably ignorant of the moral status of an adult or a baby. Fourth, not all unjust killings of innocent human adults are equally bad. Many circumstances are relevant in determining the gravity of a particular act. All unjust killings of innocent human beings are equally bad in one respect, namely, as violations of the right to live and deprivations of a person's life. But other matters may differ radically. For example, every common person has the same right to life as the President of the United States. But killing a president is worse than killing a regular citizen because of the responsibilities the president has, because the likely consequences are significantly different, and because such a killing would terrorize a vast number of people. In a similar way, the killing of an adult makes it impossible for the adult to fulfill his or her responsibilities, thwarts the fulfillment of his or her life plans, and terrorizes other people who may fear for their lives. Likewise, killing a newborn baby is worse than killing in a human fetus, again *not* because of a difference in fundamental moral status but because the killing of a newborn, whose vulnerability, defenselessness, and innocence are so patently obvious and plain to see, is worse than a killing by abortion, in which the victim is more concealed and the agent could be inculpably ignorant. All intentional unjust killings of innocent human beings are, in one respect, equally wrong, but in other respects some unjust killings are worse, even much worse, than others.

In another attempted *reductio*, Lovering faults the substance view for being unable to account for why most people would save one five-year-old girl rather than ten frozen human embryos. If you would choose to save the girl over the embryos, this indicates that human embryos must not really be equal in basic moral value.

This objection is a non sequitur. Consider an extremely important person, such as a US president, a Roman pontiff, or a British prime minister. If forced to choose between saving one extremely important person and ten ordinary persons, many people would save the president or pope or prime minister. This is not a denial of the intrinsic dignity and value of the ten ordinary people, nor is it a denial of the right to live of these ten people. A person's right to live is the obligation of other agents not to intentionally kill the person. In saving one person rather than ten others, no one is intentionally killed, so no one's right to life is violated. Everyone has an equal right not to be intentionally killed, but it does not follow that everyone has an equal right to be saved. A person's right to life is not a guarantee that other people must do everything possible to save him.

⁶ E. Christian Brugger, "The Problem of Fetal Pain and Abortion: Toward an Ethical Consensus for Appropriate Behavior," *Kennedy Institute of Ethics Journal* 22.3 (September 2012): 263–287.

So what factors are relevant in saving human beings? In addition to the role the person plays in the community (an extremely important person versus an ordinary person), several other factors are relevant, such as the likelihood of survival. If forced to choose between saving one healthy person and ten people who are likely to die anyway, it makes sense to choose the healthy person. In the case of the girl and the ten embryos, one healthy person who is likely to live a long life is set against ten embryos who may not find women willing to adopt them gestationally. Even if gestational mothers can be found, many frozen human embryos will not even survive thawing. Even if willing mothers were found and the embryos survive thawing, in vitro fertilization fails to lead to live birth about 70 percent of the time. So, all things considered, the chances of the ten embryos making it to birth are slim.

Another factor is also relevant, namely, the ties that the person has to others. Most girls have loving parents, perhaps brothers and sisters, schoolmates, and neighborhood friends. When a girl dies, the entire social network suffers. The same thing is not true of an abandoned human embryo. Finally, the girl has plans and dreams of her own that would be thwarted by her death. This is also not a factor with the human embryos. So, just as one can save the president or pope or prime minister and leave others, even many others, to die without denying the right to life of all human beings, so too one can save a girl and leave many human embryos to die, without denying their right to life.

Yet another reductio: if you really think the human fetus is a person, then abortion should be legally penalized just like murder. So unless defenders of the substance view are willing to put women who get abortions and the doctors who perform them into prison for twenty years to life, they must not really believe that the human fetus is a person equal to you or me.

However, in assessing a punishment for a crime, the law may take into account many factors. One of them is the likelihood of full understanding of the act, which is often entirely missing or at least diminished in abortion but is characteristically present in the typical case of murder. When someone is unjustly killed and it is unclear whether the killer understood that his victim was an innocent human person, the killing is treated very differently than when a killing is done with full knowledge of the victim. Another factor is the culpability of the women involved in abortion, which normally will be much less than the culpability of a typical murderer. The typical woman seeking an abortion feels trapped, helpless, and scared, and as if she had no other choice. This is not the case in a typical murder. Both the reason and the will of the agent are relevant when considering a just penalty.

A third factor is the likely effects of the punishment. If abortion were punished as first-degree murder, for example, women who had complications after an abortion would be reluctant to come in for medical help and might be seriously harmed or die as a result. This bad effect of punishing abortion like first-degree murder should be taken into account. Similarly, doctors who performed abortions would be extremely reluctant to report medical malpractice in such cases, a reluctance that would further endanger women's well-being.

A final factor is the comparative severity of the acts. Although both murder and abortion intentionally take the life of an innocent human being, murder is worse for the

reasons mentioned earlier. Similarly, the assassination of the President of the United States should be punished more severely than the murder of an ordinary person, even though the president and the ordinary person have equal basic human dignity.

In his second article, Lovering offers several arguments why it is absurd to believe that a human fetus is a person.⁷ The substance view relies on the distinction between passive potentiality (the egg and sperm have the passive potential to become a human being) and active potentiality (the human embryo can develop of his or her own accord into a rationally functioning being). He reasons that a person in a temporary coma that can be relieved via a surgery has only a passive potentiality to function rationally, and yet it is still wrong to kill the temporarily comatose. But if passive potentiality for rationality is all you need, then in virtue of cloning, every cell in the human body has the same right to life that you and I have.⁸

While it is true that defenders of the substance view hold that the person in a temporary coma has the right to life, this does *not* depend on that person's passive potentiality being restored to rational functioning during surgery. Indeed, the unconscious person retains a right to life whether or not the coma is temporary or permanent.

But does the permanently comatose human being retain a right to life? Let me suggest a reason why she does. Everyone (I hope) would agree that it is intrinsically evil to have sexual intercourse with a woman without her consent. Raping an unconscious woman is obviously wrong, and the wrongness of rape does not in any way depend on whether or not the woman is permanently unconscious or merely temporarily unconscious. It is absurd to think that we would have to suspend our moral judgment about whether a wrong action was done pending a determination of whether the coma is permanent or merely temporary. "Well, we were going to arrest you for the crime of rape, but it turns out that her coma is permanent, so no problem!" Indeed, even if we had medical certainty that a particular coma was permanent, no one (I hope) would hold that it would be morally permissible to have sexual intercourse with such a woman. But this means that the right not to be raped in no way is voided by temporary or permanent unconsciousness. So our fundamental rights are not voided by our temporary or permanent unconsciousness. If our fundamental rights are retained, then the right to life is also retained.

Lovering retorts that irreversibly comatose human beings cannot have moral standing in virtue of having possessed the property of rationality: "If the former possession of the basic potential for rational moral agency suffices to give individuals (1)–(4) [the standard adult, the reversibly comatose adult, the suicidal adult, and the standard human infant] full moral standing, then human corpses have full moral standing as well. After all, human corpses also formerly possessed the basic potential for rational moral agency. But most people would find the view that human corpses have full moral standing to be absurd."⁹ This is quite absurd, but

⁷ Lovering, "Substance View (Part 2)."

⁸ *Ibid.*

⁹ *Ibid.*

defenders of the substance view need hold no such thing for two reasons. First, the substance view is not that a being who *formerly possessed* a rational nature should be respected, but rather that a being who *currently possesses* rational nature must be respected. A human being who is irreversibly comatose possesses actually and currently a rational nature, by virtue of which the diagnosis of permanent coma is made possible. This pathology is recognized as a pathology precisely by virtue of the standard for healthy flourishing that the individual fails to fulfill. Second, moral standing is about conferring moral immunities—the right not to be killed, tortured, etc. But these immunities are meaningless for a corpse, which cannot die and which cannot be tortured. Indeed, a corpse has no nature at all, for it is not a living thing but rather a collection of parts with no substantial unity whatsoever.¹⁰ These attempts at *reductio ad absurdum* of the substance view fail.

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¹⁰ I am presupposing here the Thomistic conception of death.