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Review of David Boonin, A Defense of Abortion

Christopher Kaczor
Loyola Marymount University, Christopher.Kaczor@lmu.edu

***A Defense of Abortion,* by David Boonin. Cambridge: Cambridge University Press, 2003. xvi + 350 pp. Bibliography. Index.**

David Boonin's *A Defense of Abortion* is the most sophisticated, detailed, and exhaustive treatment of its kind. It sets the standard for both those opposed to and those in favor of abortion. It fully lives up to its promise as "the most thorough and detailed case for the moral permissibility of abortion yet published," as the back cover proclaims.

After describing his moral method in an introductory chapter, Boonin examines nine arguments that personhood begins at conception, including the species essence argument, the sanctity-of-human-life argument, the slippery-slope argument, the potentiality argument, the future-like-ours argument, and the probability argument. He endeavors to show that each of these arguments fails. Next, he turns to various post-conception criteria of personhood, such as implantation, external human form, actual fetal movement, quickening, initial brain activity, and viability. Boonin shows, I think convincingly, that none of these post-conception possibilities is philosophically defensible.

In the fourth and longest section, Boonin defends Judith Jarvis Thomson's "violinist" or "good Samaritan" argument against some seventeen different objections, including the responsibility objection, the killing-versus-letting-die objection, the intending-versus-foreseeing objection, the stranger-versus-offspring objection, the child support objection, and the duty-to-save-the-violinist objection. He concludes the book by rejecting various non-rights-based arguments, such as the culture-of-death argument, the pro-life feminist argument, and the uncertainty argument.

Within each section, Boonin treats various versions of each argument, critiques each version, offers possible responses to his critique, and then critiques each response. He leaves virtually no stone unturned as he builds the case for the moral permissibility of abortion.

Despite all this, *A Defense of Abortion* does not make good its claim to show that "the moral case against abortion can be shown to be unsuccessful on terms that critics of abortion can, and already do, accept" (2). His case for abortion relies, at several points, on premises rejected by virtually all critics of abortion and is also problematic on grounds that Boonin himself appears to endorse.

Boonin's view of who has the right to life combines important aspects of Donald Marquis's and Michael Tooley's accounts of personhood. For Marquis, what makes killing wrong in general is that it is an instance of taking away a future-like-ours. Since the normal fetus will (if not killed) enjoy a future-like-ours, abortion is wrong for the same reason that killing you or me is wrong. Hence, the human fetus has a right to life. For Tooley, personhood arises from the desire not to be killed, which requires that one have a conception of oneself as a being who exists. Tooley denies that human fetuses or newborns are persons, since they lack a conception of themselves from which the desire to live could arise.

Boonin holds that it is the desire for a future-like-ours that gives a being the right to life. It is prima facie wrong to violate someone's desires, and killing you or me (at least usually) thwarts our desires to live. Boonin holds that it is the present (not future or potential), dispositional (not necessarily occurrent or consciously entertained), ideal (not necessarily actual), and implicit (not necessarily explicitly held) desire to have a future-like-ours that gives a being the right to life. Each of these distinctions (present/future, dispositional/occurrent, ideal/actual, implicit/explicit) is important for Boonin's case.

For Boonin, it is not the desires one might or will have in the future that matter, but the desires that are actual or currently existing now, for otherwise Boonin could end up with a version of Marquis's view that abortion is wrong because it thwarts the *future* but not yet existing desires of the human fetus for a future-like-ours. I may not be currently entertaining the desire that I do not want to be killed, but like the knowledge of geometry and the desire to avoid painful diseases, I habitually or dispositionally desire to live even when not thinking about this desire consciously or occurrently. After sleep, a coma, or surgery, I do not need to relearn geometry or re-ignite the desire to live when I wake, since I have this knowledge or desire dispositionally. Boonin notes that this is not true of the human fetus before the human fetus has desires.

It is also important for Boonin's case that it is not my actual desires that matter (what in fact I do desire), but rather my ideal desires (what I would desire if I were mentally sound, fully informed, not indoctrinated). Otherwise, one would have to conclude that heartbroken suicidal teenagers, brainwashed cult followers, and mentally imbalanced human beings who do not actually desire to live do not have a right to life.

Finally, unlike Tooley, Boonin is not driven to explicitly justify infanticide, because whatever is necessary for the realization of an actual, ideal, dispositional desire is itself *implicitly desired*. So the human fetus or infant, although lacking a "concept of self" and therefore unable to explicitly desire to live, nevertheless still has a right to life. In desiring to hear their mothers' voices, for example, human fetuses at a certain stage of development have an implicit desire to live, for nothing they actually desire can be had without their being alive.

Since implicit desires are parasitic upon actual desires, however, and since the human fetus before twenty-five weeks' gestation lacks actual desires, Boonin argues that the fetus also lacks the implicit desire for a future-like-ours, and therefore has no rights:

> A human fetus has no such desires prior to the point at which it has conscious experiences, and it has no conscious experiences prior to the point at which it has organized electrical activity in its cerebral cortex. It therefore has no such desires prior to the point at which it has organized electrical activity in its cerebral cortex. (126)

Although there is a "gray area" (section 3.6.4), Boonin argues that conscious desires begin when there is "a certain kind of electrical activity in its cerebral cortex, and that this occurs at some point from twenty-five to thirty-two weeks after fertilization" (127). During this period, the human fetus attains a right to life, for it is then that there begins to exist a present, dispositional, ideal, implicit desire to live.

This account of the right to life is not successful. First, an ideal desire is nothing other than a desire for what is not just apparently good (the water laced with invisible poison) but for what is actually good. It is not one's desires that are so important morally (after all, we can override actual non-ideal desires), but rather what is actually good. And it is actually good for the human fetus not to be killed, for the fetus to have a future-like-ours.

Second, Boonin's account of rights would exclude beings that clearly merit respect as persons. Angels, divine persons, and blessed human beings in heaven do not *desire* anything at all, because they fully possess their good and are therefore entirely filled with joy. Many people defending the pro-life point of view (including, for example, most Christians) can and do accept that there are such beings who cannot be killed (who yet could

be "wronged" by even attempted murder). Buddhist masters claim to have extinguished all desire in the state of nirvana. Whether such beings can be shown to actually exist is beside the point, for Boonin himself regularly uses and defends the use of "strange counter-examples" (section 4.2).

Third, the existence of a desire is always an indication of some imperfection, a lack of something that one wishes to possess. So, in Boonin's account, we arrive at the counter-intuitive implication that beings who enjoy a higher perfection and superior properties (like angels or the imaginary Buddhist master) lack dignity and rights, while lesser beings who can only aspire to satisfying their desires do enjoy dignity and rights.

Fourth, virtually all critics of abortion hold that the right to life is an inalienable right, but Boonin's account is incompatible with holding that the right to life is inalienable, indicating again that his case is not successful on terms that critics of abortion can, and already do, accept.

Fifth, Boonin criticizes other accounts of personhood as "unable to account for the presumed wrongness of killing infants" (125; see also 120–121). His own view of why it is wrong to kill also fails according to this standard, however, for thousands of infants are born before twenty-five weeks' gestation, the point at which personhood arises according to Boonin. At one point Boonin suggests that the line should be drawn at twenty weeks' gestation (128), leaving fewer (but still some) newborns without the right to life. But according to his own account there is *no evidence* that the line should be drawn prior to twenty-five weeks and *ample evidence* that it should be drawn between twenty-five and thirty-two weeks (115).

Sixth, Boonin's account cannot secure the right to life of even full-term infants. Boonin correctly notes that newborns *enjoy* certain sensations (83), but it does not follow that they *desire* these sensations. To desire is to envision that some possibility may be or not be, and then, following this judgment, to prefer that the possibility is or is not realized. To desire, in other words, requires conceptualization of future possibilities. To desire is always to project forward, and so beings without a sense of time, beings incapable of projecting forward, do not have desires, although they may experience ongoing moments of sensation.

Likewise, beings lacking the ability to conceptualize various possibilities cannot have desires. A desire is a preference for one (future) possibility over another. Those who cannot even consider various possibilities do not and cannot desire anything. Neither an awareness of time nor conceptualization of future possibilities can plausibly be attributed to children until months after birth. So if Boonin were right that actual desires are necessary for the human right to life, then the right to life would not arise until many months after birth.

Finally, Boonin's defense of the violinist argument also faces difficulties. His account of the intention/foresight distinction is highly idiosyncratic and would be rejected by the vast majority of critics of abortion. Few critics of abortion would agree that parents (biological, gestational, or adoptive) do not have special duties to children. Indeed, the whole point of the Good Samaritan parable is that one *does have* a duty to one's neighbor in need, so to use this parable however indirectly to defend not coming to the aid of one's neighbor (who is also in this case one's son or daughter) is rather like appealing to the story of the three little pigs to defend laziness.

To his credit, Boonin recognizes that abortion sometimes harms women: "To set the [violinist] analogy straight, then, we must specify that the process of unplugging yourself from the violinist also imposes a variety of costs or risks of costs, and of comparable magnitude" (241). If the costs or risks of costs are as great as or greater than those of giving live birth, as argued by the research of David Reardon, among others, the intuitive pull of the violinist argument fails. If a woman is going to undergo or risk undergoing severe costs of a similar magnitude *whether or not she aborts*, then ending the life of the human being in utero would be like ending the life of the violinist while remaining plugged into him.

Boonin's defense of the violinist argument merits more attention than I can give it here, and I hope the book I am completing, *The*

Morality of Abortion: Human Life, Women's Rights, and the Question of Justice, will provide a more comprehensive response. However, even on terms that Boonin accepts, his arguments about who has the right to life and his defense of the violinist argument do not succeed. Although this book is the best defense of abortion I have read, it does not accomplish its goal.

CHRISTOPHER KACZOR, PH.D.
Department of Philosophy
Loyola Marymount University
Los Angeles, California

***Marriage and the Catholic Church: Disputed Questions*, by Michael G. Lawler. Collegeville, MN: Liturgical Press, 2002. xiii + 226pp. Index.**

With his latest volume, Michael Lawler adds to an already impressive list of contributions to discussions on marriage and family life as well as practical and sacramental theology. The book offers a careful analysis of historical and theological developments around marriage in the Western tradition and within Catholicism itself, with a view to uncovering important implications for the pressing questions of our own time. That there are, in fact, such developments is a point often obscured by much of the contemporary rhetoric about traditional family values.

A significant contribution of this volume is the attention Lawler gives to placing these developments in their broader theological context. He draws on a wide array of sources for Catholic teaching on marriage, beyond the *Catechism* and canon law. He wrestles with data from the social sciences without making facile conclusions about cause and effect, especially with regard to the causes of marital difficulty and breakup. Lawler's pastoral concern for those entering marriage, married couples, and those whose marriages have failed comes through very clearly and guides his proposals for change.

The book is divided into nine chapters with prologue and epilogue, most of which are drawn from previously published essays. The first and third chapters address marriage as a sacrament. Marriage as a sacrament is a symbol that operates on two different levels. At the foundation is the marriage, "the intimate partnership of life and love" between a man and a woman who are disciples of Christ. On another level, the communion between the spouses serves to represent to the community the "communion of life and love between Christ and his Church." The bonds of marriage (discussed in Chapter Four) arise first and foremost from the mutual love between spouses. Added to this is the legal or civil bond arising from a valid marriage. When undertaken as a sacrament between believing Christians, a third bond also unites the couple. Their relationship is not only loving and legal, but also religious, "informed by the grace of God."

Chapter Two sketches the competing models of marriage in the tradition: procreative institution, procreative union, and interpersonal union. Lawler favors the third as consistent with the theological commitment to the sacramentality of marriage. It is also consistent with the current social-scientific data reporting the importance of friendship and trust for a successful and lasting relationship. This is not to disregard the procreative meaning of married life. According to Lawler, "the interpersonal union of the spouses, with its mutual love, fidelity, self-sacrifice, justice, compassion, forgiveness, and peace, is far and away the best climate for the procreation of functioning adults."

All the chapters on sacramentality, on friendship, and on family have practical implications, but three explicitly address specific pastoral issues: divorce and remarriage, interchurch marriage, and cohabitation. With respect to divorce and remarriage, Lawler acknowledges the limits of the scriptural evidence and points to the Orthodox practice of *oikonomia* as a possible avenue for further reflection. *Oikonomia* allows the Orthodox Church to admit when a marriage has died, to publicly grieve that loss, and to permit a second marriage as sign of God's mercy and compassion. That there are so many divorced and remarried Catholics suffering because they are