Few bioethical issues could be of greater personal and social significance than questions concerning reproduction. Advances in medical technology, such as in vitro fertilization and egg donation, have opened new possibilities for infertile couples, while challenging traditional notions of family. How to responsibly use these technologies to help people have families presents special challenges. Another type of technological advance, the ability to see images of the developing fetus, has enhanced our understanding of both normal growth and birth defects. This technology has provided evidence of the impact of the mother’s behavior on fetal development. While many behaviors of pregnant women expose fetuses to risk, and while fathers’ exposure to chemicals and other toxic substances also affects fetuses, attention has focused mainly on the mothers’ use of illegal drugs. Preventing risk to fetuses raises troubling questions concerning the role of police and the courts in medical matters and the best way to assist drug-addicted women. The most polarized question remains the morality of abortion, where common ground is elusive. The issues in this unit come to grips with some of the most perplexing and fundamental questions that confront medical practitioners, individual women and their partners, and society in general.

- Is Abortion Immoral?
- Should There Be Legal Limits on How Many Embryos Can Be Transferred into a Woman Who Wants to Be Pregnant?
- Should a Pregnant Woman Be Punished for Exposing Her Fetus to Risk?
**IS Issue 7**

**Is Abortion Immoral?**


**Learning Outcomes**

After reading this issue, you should be able to:

- Discuss the ethical dilemma posed by abortion.
- Describe the concepts of personhood and parenthood and some of the different accounts that may be given of them.

**ISSUE SUMMARY**

**YES:** Philosopher Patrick Lee and professor of jurisprudence Robert P. George assert that human embryos and fetuses are complete (though immature) human beings and that intentional abortion is unjust and objectively immoral.

**NO:** Philosopher Margaret Olivia Little believes that the moral status of the fetus is only one aspect of the morality of abortion. She points to gestation as an intimacy, motherhood as a relationship, and creation as a process to advance a more nuanced approach.

Abortion is the most divisive bioethical issue of our time. The issue has been a persistent one in history, but in the past 30 years or so the debate has polarized. One view—known as "pro-life"—sees abortion as the wanton slaughter of innocent life. The other view—"pro-choice"—considers abortion as an option that must be available to women if they are to control their own reproductive lives. According to the pro-life view, women who have access to "abortion on demand" put their own selfish whims ahead of an unborn child's right to life. According to the pro-choice view, women have the right to choose to have an abortion—especially if there is an overriding reason, such as preventing the birth of a child with a severe genetic defect or one conceived as a result of rape or incest.

Behind these strongly held convictions, as political scientist Mary Segers has pointed out, are widely differing views of what determines value (i.e., whether value is inherent in a thing or ascribed to it by human beings), the relation between law and morality, and the use of limits of political solutions to social problems, as well as the value of scientific progress. Those who condemn abortion as immoral generally follow a classical tradition in which abortion is a public matter because it involves our conception of how we should live together in an ideal society. Those who accept the idea of abortion, on the other hand, generally share the liberal, individualistic ethos of contemporary society. They believe that abortion is a private choice, and that public policy should reflect how citizens actually behave, not some unattainable ideal.

This is what we know about abortion practices in America today: Abortion has been legal since the 1973 Supreme Court decision of *Roe v. Wade* declared that a woman has a constitutional right to privacy, which includes an abortion. According to the National Center on Health Statistics, abortion at 8 weeks or less gestation is seven times safer than childbirth, although there are some unknown risks—primarily the effect of repeated abortions on subsequent pregnancies.

In the past few decades, the demographic profile of women who have abortions has changed significantly, according to data collected by the Guttmacher Institute, a private research organization. Relatively fewer white childless teenagers are choosing abortion, while more low-income women of color in their 20s and 30s who already have children are having abortions. Non-Hispanic white women account for 36 percent of abortions, non-Hispanic black women for 30 percent, Hispanic women for 25 percent, and women of other races for 9 percent.

Overall the abortion rate dropped by about one-third from 1978 to 2008, from a high of around 28 abortions for every thousand women aged 15–44 to about 20 per thousand in 2008. Some of the reasons are the use of long-acting hormonal contraceptives, a lower pregnancy rate among teenagers, and growing use of emergency contraception. According to 2011 data available from the Guttmacher Institute, the typical woman having an abortion is between the ages of 20 and 30, has never married, lives in a metropolitan area, and is a Christian (37 percent identify as Protestant and 28 percent as Catholic). Most women who have an abortion already have a child, and 44 percent have incomes below the federal poverty level.

The YES and NO selections offer thoughtful and reasoned but opposing views on abortion. Patrick Lee and Robert P. George conclude that being a mother generates a special responsibility and that the sacrifice morally required of the mother is less burdensome than the harm that would be done by expelling the child, causing his or her death, to escape that responsibility. They see abortion as objectively immoral. Margaret Olivia Little believes that if we acknowledge gestation as an intimacy, motherhood as a relationship, and creation as a process, we will be better able to appreciate the moral textures of abortion.
The Wrong of Abortion

Much of the public debate about abortion concerns the question whether deliberate feticide ought to be unlawful, at least in most circumstances. We will lay that question aside here in order to focus first on the question: is the choice to have, to perform, or to help procure an abortion morally wrong?

We shall argue that the choice of abortion is objectively immoral. By “objectively” we indicate that we are discussing the choice itself, not the (subjective) guilt or innocence of someone who carries out the choice: someone may act from an erroneous conscience, and if he is not at fault for his error, then he remains subjectively innocent, even if his choice is objectively wrongful.

The first important question to consider is: what is killed in an abortion? It is obvious that some living entity is killed in an abortion. And no one doubts that the moral status of the entity killed is a central (though not the only) question in the abortion debate. We shall approach the issue step by step, first setting forth some (though not all) of the evidence that demonstrates that what is killed in abortion—a human embryo—is indeed a human being, then examining the ethical significance of that point.

Human Embryos and Fetuses Are Complete (though Immature) Human Beings

It will be useful to begin by considering some of the facts of sexual reproduction. The standard embryology texts indicate that in the case of ordinary sexual reproduction the life of an individual human being begins with complete fertilization, which yields a genetically and functionally distinct organism, possessing the resources and active disposition for internally directed development toward human maturity.

In normal conception, a sex cell of the father, a sperm, unites with a sex cell of the mother, an ovum. Within the chromosomes of these sex cells are the DNA molecules which constitute the information that guides the development of the new individual brought into being when the sperm and ovum fuse. When fertilization occurs, the 23 chromosomes of the sperm unite with the 23 chromosomes of the ovum. At the end of this process there is produced an entirely new and distinct organism, originally a single cell. This organism, the human embryo, begins to grow by the normal process of cell division—it divides into 2 cells, then 4, 8, 16, and so on (the divisions are not simultaneous, so there is a 3-cell stage, and so on). This embryo gradually develops all of the organs and organ systems necessary for the full functioning of a mature human being. His or her development (sex is determined from the beginning) is very rapid in the first few weeks. For example, as early as eight or ten weeks of gestation, the fetus has a fully formed, beating heart, a complete brain (although not all of its synaptic connections are complete—nor will they be until sometime after the child is born), a recognizably human form, and the fetus feels pain, cries, and even sucks his or her thumb.

There are three important points we wish to make about this human embryo. First, it is from the start distinct from any cell of the mother or of the father. This is clear because it is growing in its own distinct direction. Its growth is internally directed to its own survival and maturation. Second, the embryo is human: it has the genetic makeup characteristic of human beings. Third, and most importantly, the embryo is a complete or whole organism, though immature. The human embryo, from conception onward, is fully programmed actively to develop himself or herself to the mature stage of a human being, and, unless prevented by disease or violence, will actually do so, despite possibly significant variation in environment (in the mother’s womb). None of the changes that occur to the embryo after fertilization, for as long as he or she survives, generates a new direction of growth. Rather, all of the changes (for example, those involving nutrition and environment) either facilitate or retard the internally directed growth of this persisting individual.

Sometimes it is objected that if we say human embryos are human beings, on the grounds that they have the potential to become mature humans, the same will have to be said of sperm and ova. This objection is untenable. The human embryo is radically unlike the sperm and ova, the sex cells. The sex cells are manifestly not whole or complete organisms. They are not only genetically but also functionally identifiable as parts of the male or female potential parents. They clearly are destined either to combine with an ovum or sperm or die. Even when they succeed in causing fertilization, they do not survive; rather, their genetic material enters into the composition of a distinct, new organism.

Nor are human embryos comparable to somatic cells (such as skin cells or muscle cells), though some have tried to argue that they are. Like sex cells, a somatic cell is functionally only a part of a larger organism. The human embryo, by contrast, possesses from the beginning the internal resources and active disposition to develop himself or herself to full maturity; all he or she needs is a suitable environment and nutrition. The direction of his or her growth is not extrinsically determined, but the embryo is internally directing his or her growth toward full maturity.

So, a human embryo (or fetus) is not something distinct from a human being; he or she is not an individual of any non-human or intermediate species. Rather, an embryo (and fetus) is a human being at a certain (early) stage of development—the embryonic (or fetal) stage. In abortion, what is killed is
a human being, a whole living member of the species *homo sapiens*, the same kind of entity as you or I, only at an earlier stage of development. . . .

### The Argument That Abortion Is Justified as Non-Intentional Killing

Some “pro-choice” philosophers have attempted to justify abortion by denying that all abortions are intentional killing. They have granted (at least for the sake of argument) that an unborn human being has a right to life but have then argued that this right does not entail that the child *in utero* is morally entitled to the use of the mother’s body for life support. In effect, their argument is that, at least in many cases, abortion is not a case of intentionally killing the child, but a choice not to provide the child with assistance, that is, a choice to expel (or “evict”) the child from the womb, despite the likelihood or certainty that expulsion (or “eviction”) will result in his or her death (Little, 1999; McDonagh, 1996; Thomson, 1971).

Various analogies have been proposed by people making this argument. The mother’s gestating a child has been compared to allowing someone the use of one’s kidneys or even to donating an organ. We are not required (morally or as a matter of law) to allow someone to use our kidneys, or to donate organs to others, even when they would die without this assistance (and we could survive in good health despite rendering it). Analogously, the argument continues, a woman is not morally required to allow the fetus the use of her body. We shall call this “the bodily rights argument.”

It may be objected that a woman has a special responsibility to the child she is carrying, whereas in the cases of withholding assistance to which abortion is compared there is no such special responsibility. Proponents of the bodily rights argument have replied, however, that the mother has not voluntarily assumed responsibility for the child, or a personal relationship with the child, and we have strong responsibilities to others only if we have voluntarily assumed such responsibilities (Thomson, 1971) or have consented to a personal relationship which generates such responsibilities (Little, 1999). True, the mother may have voluntarily performed an act which she knew may result in a child’s conception, but that is distinct from consenting to gestate the child if a child is conceived. And so (according to this position) it is not until the woman consents to pregnancy, or perhaps not until the parents consent to care for the child by taking the baby home from the hospital or birthing center, that the full duties of parenthood accrue to the mother (and perhaps the father).

In reply to this argument we wish to make several points. We grant that in some few cases abortion is not intentional killing, but a choice to expel the child, the child’s death being an unintended, albeit foreseen and (rightly or wrongly) accepted, side effect. However, these constitute a small minority of abortions. In the vast majority of cases, the death of the child *in utero* is precisely the object of the abortion. In most cases the end sought is to avoid being a parent; but abortion brings that about only by bringing it about that the child dies. Indeed, the attempted abortion would be considered by the woman requesting it and the abortionist performing it to have been unsuccessful if the child survives. In most cases abortion is intentional killing. Thus, even if the bodily rights argument succeeded, it would justify only a small percentage of abortions.

Still, in some few cases abortion is chosen as a means precisely toward ending the condition of pregnancy, and the woman requesting the termination of her pregnancy would not object if somehow the child survived. A pregnant woman may have less or more serious reasons for seeking the termination of this condition, but if that is her objective, then the child’s death resulting from his or her expulsion will be a side effect, rather than the means chosen. For example, an actress may wish not to be pregnant because the pregnancy will change her figure during a time in which she is filming scenes in which having a slender appearance is important; or a woman may dread the discomforts, pains, and difficulties involved in pregnancy. (Of course, in many abortions there may be mixed motives: the parties making the choice may intend both ending the condition of pregnancy and the death of the child.)

Nevertheless, while it is true that in some cases abortion is not intentional killing, it remains misleading to describe it simply as choosing not to provide bodily life support. Rather, it is actively expelling the human embryo or fetus from the womb. There is a significant moral difference between *not* doing something that would assist someone, and *doing* something that causes someone harm, even if that harm is an unintended (but foreseen) side effect. It is more difficult morally to justify the latter than it is the former. Abortion is the *act* of extracting the unborn human being from the womb—an extraction that usually rips him or her to pieces or does him or her violence in some other way.

It is true that in some cases causing death as a side effect is morally permissible. For example, in some cases it is morally right to use force to stop a potentially lethal attack on one’s family or country, even if one foresees that the force used will also result in the assailant’s death. Similarly, there are instances in which it is permissible to perform an act that one knows or believes will, as a side effect, cause the death of a child *in utero*. For example, if a pregnant woman is discovered to have a cancerous uterus, and this is a proximate danger to the mother’s life, it can be morally right to remove the cancerous uterus with the baby in it, even if the child will die as a result. A similar situation can occur in ectopic pregnancies. But in such cases, not only is the child’s death a side effect, but the mother’s life is in proximate danger. It is worth noting also that in these cases *what is done* (the means) is the correction of a pathology (such as a cancerous uterus, or a ruptured uterine tube). Thus, in such cases, not only the child’s death, but also the ending of the pregnancy, are side effects. So, such acts are what traditional casuistry referred to as *indirect* or *non-intentional*, abortions.

But it is also clear that not every case of causing death as a side effect is morally right. For example, if a man’s daughter has a serious respiratory disease and the father is told that his continued smoking in her presence will cause her death, it would obviously be immoral for him to continue the smoking. Similarly, if a man works for a steel company in a city with significant levels of air pollution, and his child has a serious respiratory problem making the air pollution a danger to her life, certainly he should move to another city. He should move, we would say, even if that meant he had to resign a prestigious position or make a significant career change.
In both examples, (a) the parent has a special responsibility to his child, but (b) the act that would cause the child's death would avoid a harm to the parent but cause a significantly worse harm to his child. And so, although the harm done would be a side effect, in both cases the act that caused the death would be an unjust act, and morally wrongful as such. The special responsibility of parents to their children requires that they at least refrain from performing acts that cause terrible harms to their children in order to avoid significantly lesser harms to themselves.

But (a) and (b) also obtain in intentional abortions (that is, those in which the removal of the child is directly sought, rather than the correction of a life-threatening pathology) even though they are not, strictly speaking, intentional killing. First, the mother has a special responsibility to her child, in virtue of being her biological mother (as does the father in virtue of his paternal relationship). The parental relationship itself—not just the voluntary acceptance of that relationship—gives rise to a special responsibility to a child.

Proponents of the bodily rights argument deny this point. Many claim that one has full parental responsibilities only if one has voluntarily assumed them. And so the child, on this view, has a right to care from his or her mother (including gestation) only if the mother has accepted her pregnancy, or perhaps only if the mother (and/or the father?) has in some way voluntarily begun a deep personal relationship with the child (Little, 1999).

But suppose a mother takes her baby home after giving birth, but the only reason she did not get an abortion was that she could not afford one. Or suppose she lives in a society where abortion is not available (perhaps very few physicians are willing to do the grisly deed). She and her husband take the child home only because they had no alternative. Moreover, suppose that in their society people are not waiting in line to adopt a newborn baby. And so the baby is several days old before anything can be done. If they abandon the baby and the baby is found, she will simply be returned to them. In such a case the parents have not voluntarily assumed responsibility; nor have they consented to a personal relationship with the child. But it would surely be wrong for these parents to abandon their baby in the woods (perhaps the only feasible way of ensuring she is not returned), even though the baby's death would be only a side effect. Clearly, we recognize that parents do have a responsibility to make sacrifices for their children, even if they have not voluntarily assumed such responsibilities, or given their consent to the personal relationship with the child.

The bodily rights argument implicitly supposes that we have a primordial right to construct a life simply as we please, and that others have claims on us only very minimally or through our (at least tacit) consent to a certain sort of relationship with them. On the contrary, we are by nature members of communities. Our moral goodness or character consists to a large extent (though not solely) in contributing to the communities of which we are members. We ought to act for our genuine good or flourishing (we take that as a basic ethical principle), but our flourishing involves being in communion with others. And communion with others of itself—even if we find ourselves united with others because of a physical or social relationship which precedes our consent—entails duties or responsibilities. Moreover, the contribution we are morally required to make to others will likely bring each of us some discomfort and pain. This is not to say that we should simply ignore our own good, for the sake of others. Rather, since what (and who) I am in part constituted by various relationships with others, not all of which are initiated by my will, my genuine good includes the contributions I make to the relationships in which I participate. Thus, the life we constitute by our free choices should be in large part a life of mutual reciprocity with others.

For example, I may wish to cultivate my talent to write and so I may want to spend hours each day reading and writing. Or I may wish to develop my athletic abilities and so I may want to spend hours every day on the baseball field. But if I am a father of minor children, and have an adequate paying job working (say) in a coal mine, then my clear duty is to keep that job. Similarly, if one's girlfriend finds she is pregnant and one is the father, then one might also be morally required to continue one's work in the mine (or mill, factory, warehouse, etc.).

In other words, I have a duty to do something with my life that contributes to the good of the human community, but that general duty becomes specified by my particular situation. It becomes specified by the connection or closeness to me of those who are in need. We acquire special responsibilities to people, not only by consenting to contracts or relationships with them, but also by having various types of union with them. So, we have special responsibilities to those people with whom we are closely united. For example, we have special responsibilities to our parents, and brothers and sisters, even though we did not choose them.

The physical unity or continuity of children to their parents is unique. The child is brought into being out of the bodily unity and bodies of the mother and the father. The mother and the father are in a certain sense prolonged or continued in their offspring. So, there is a natural unity of the mother with her child, and a natural unity of the father with his child. Since we have special responsibilities to those with whom we are closely united, it follows that we in fact do have a special responsibility to our children anterior to our having voluntarily assumed such responsibility or consented to the relationship.2

The second point is this: in the types of case we are considering, the harm caused (death) is much worse than the harms avoided (the difficulties in pregnancy). Pregnancy can involve severe impositions, but it is not nearly as bad as death—which is total and irreversible. One needn't make light of the burdens of pregnancy to acknowledge that the harm that is death is in a different category altogether.

The burdens of pregnancy include physical difficulties and the pain of labor, and can include significant financial costs, psychological burdens, and interference with autonomy and the pursuit of other important goals (McDonagh, 1996: ch. 5). These costs are not inconsiderable. Partly for that reason, we owe our mothers gratitude for carrying and giving birth to us. However, where pregnancy does not place a woman's life in jeopardy or threaten grave and lasting damage to her physical health, the harm done to other goods is not total. Moreover, most of the harms involved in pregnancy are not irreversible: pregnancy is a nine-month task—if the woman and man are not in a good
position to raise the child, adoption is a possibility. So the difficulties of pregnancy, considered together, are in a different and lesser category than death. Death is not just worse in degree than the difficulties involved in pregnancy; it is worse in kind.

It has been argued, however, that pregnancy can involve a unique type of burden. It has been argued that the intimacy involved in pregnancy is such that if the woman must remain pregnant without her consent then there is inflicted on her a unique and serious harm. Just as sex with consent can be a desired experience but sex without consent is a violation of bodily integrity, so (the argument continues) pregnancy involves such a close physical intertwinement with the fetus that not to allow abortion is analogous to rape—it involves an enforced intimacy (Boonin, 2003: 84; Little, 1999: 300–3).

However, this argument is based on a false analogy. Where the pregnancy is unwanted, the baby’s “occupying” the mother’s womb may involve a harm; but the child is committing no injustice against her. The baby is not forcing himself or herself on the woman, but is simply growing and developing in a way quite natural to him or her. The baby is not performing any action that could in any way be construed as aimed at violating the mother.3

It is true that the fulfillment of the duty of a mother to her child (during gestation) is unique and in many cases does involve a great sacrifice. The argument we have presented, however, is that being a mother does generate a special responsibility, and that the sacrifice morally required of the mother is less burdensome than the harm that would be done to the child by expelling the child, causing his or her death, to escape that responsibility. Our argument equally entails responsibilities for the father of the child. His duty does not involve as direct a bodily relationship with the child as the mother’s, but it may be equally or even more burdensome. In certain circumstances, his obligation to care for the child (and the child’s mother), and especially his obligation to provide financial support, may severely limit his freedom and even require months or, indeed, years, of extremely burdensome physical labor. Historically, many men have rightly seen that their basic responsibility to their family (and country) has entailed risking, and in many cases, losing, their lives. Different people in different circumstances, with different talents, will have different responsibilities. It is no argument against any of these responsibilities to point out their distinctness.

So, the burden of carrying the baby, for all its distinctness, is significantly less than the harm the baby would suffer by being killed; the mother and father have a special responsibility to the child; it follows that intentional abortion (even in the few cases where the baby’s death is an unintended but foreseen side effect) is unjust and therefore objectively immoral.

Notes


2. David Boonin claims, in reply to this argument—in an earlier and less developed form, presented by Lee (1996: 122)—that it is not clear that it is impermissible for a woman to destroy what is a part of, or a continuation of, herself. He then says that to the extent the unborn human being is united to her in that way, “it would if anything seem that her act is easier to justify than if this claim were not true” (2003: 230). But Boonin fails to grasp the point of the argument (perhaps understandably since it was not expressed very clearly in the earlier work he is discussing). The unity of the child to the mother is the basis for this child being related to the woman in a different way from how other children are. We ought to pursue our own good and the good of others with whom we are united in various ways. If that is so, then the closer someone is united to us, the deeper and more extensive our responsibility to the person will be.

3. In some sense being bodily “occupied” when one does not wish to be is a harm; however, just as the child does not (as explained in the text), neither does the state inflict this harm on the woman, in circumstances in which the state prohibits abortion. By prohibiting abortion the state would only prevent the woman from performing an act (forcibly detaching the child from her) that would unjustly kill this developing child, who is an innocent party.

References

The Morality of Abortion

Introduction

It is often noted that the public discussion of abortion’s moral status is disappointingly crude. The positions staked out and the reasoning proffered seem to reflect little of the subtlety and nuance—not to mention ambivalence—that mark more private reflections on the subject. Despite attempts by various parties to find middle ground, the debate remains largely polarized—at its most dramatic, with extreme conservatives claiming abortion the moral equivalent of murder even as extreme liberals think it devoid of moral import.

To some extent, this polarization is due to the legal battle that continues to shadow moral discussions: admission of ethical nuance, it is feared, will play as concession on the deeply contested question of whether abortion should be a legally protected option for women. But to some extent, blame for the continued crudeness can be laid at the doorstep of moral theory itself.

For one thing, the ethical literature on abortion has focused its attention almost exclusively on the thinnest moral assessment—on whether and when abortion is “morally permissible.” That question is, of course, a crucial one, its answer often desperately sought. But many of our deepest struggles with the morality of abortion concern much more textured questions about its placement on the scales of decency, respectfulness, and responsibility. It is one thing to decide that an abortion was permissible, quite another to decide that it was honorable; one thing to decide that an abortion was impermissible, quite another to decide that it was monstrous. It is these latter categories that determine what we might call the thick moral interpretation of the act—and, with it, the meaning the woman must live with, and the reactive attitudes such as disgust, forbearance, or admiration that she and others think the act deserves. A moral theory that moves too quickly or focuses too exclusively on moral permissibility won’t address these crucial issues. . . .

To make progress on abortion’s moral status, it thus turns out, requires us not just to arbitrate already familiar controversies in metaphysics and ethics, but to attend to the distinctive aspects of pregnancy that often stand at their margins. In the following, I want to argue that if we acknowledge gestation as concession on the deeply contested question of whether abortion should be a legally protected option for women—quite another to decide that it was monstrous. The positions staked out and the reasoning proffered seem to reflect little of the subtlety and nuance—not to mention ambivalence—that mark more private reflections on the subject. Despite attempts by various parties to find middle ground, the debate remains largely polarized—at its most dramatic, with extreme conservatives claiming abortion the moral equivalent of murder even as extreme liberals think it devoid of moral import.

On the usual view, it is perfectly obvious what to say about abortion on supposition of fetal personhood: if fetuses are persons, then abortion is murder. Persons, after all, have a fundamental right to life, and abortion, it would seem, counts as its gross violation. On this view, we can assess the status of abortion quite cleanly. In particular, we needn’t delve too deeply into the burdens that continued gestation might present for women—not because their lives don’t matter or because we don’t sympathize with their plight, but because we don’t take hardship as justification for murder.

In fact, though, abortion’s assimilation to murder will seem clear-cut only if we have already ignored key features of gestation. While certain metaphors depict gestation as passive carriage—as though the fetus were simply occupying a room until it is born—the truth is of course far different. One who is gestating is providing the fetus with sustenance—donating nourishment, creating blood, delivering oxygen, providing hormonal triggers for development—without which it could not live. For a fetus, to live is to be receiving aid. And whether the assistance is delivered by way of intentional activity (as when the woman eats or takes her prenatal vitamins) or by way of biological mechanism, assistance it plainly is. But this has crucial implications for abortion’s alleged status as murder. To put it simply, the right to life, as Judith Thomson famously put it, does not include the right to have all assistance needed to maintain that life (Thomson, 1971). Ending gestation will, at early stages at least, certainly lead to the fetus’s demise, but that does not mean that doing so would constitute murder. . . .

Even if the fetus is a person, then, abortion would not be murder. More broadly put, abortion, whatever its rights and wrongs, isn’t a species of wrongful interference.

None of this, though, is to say that abortion under such supposition is therefore unproblematic. It is to argue, instead, that the crucial moral issue needs to be re-located. Wrongful interference is a central concern in morality, but it isn’t the only one. We are also concerned with notions of neglect, abandonment, and disregard. These are issues that involve abrogations of positive responsibilities to help others, not injunctions against interfering with them.

Fetal Personhood: From Wrongful Interference to Positive Responsibilities

If fetuses are persons, then abortion is surely an enormously serious matter: What is at stake is nothing less than the life of a creature with full moral standing. To say that the stakes are high, though, is not to say that moral analysis is obvious (which is why elsewhere in moral theory, conversation usually starts, not stops, once we realize people’s lives are at issue). I think the most widely held objection to abortion is badly misguided; more importantly, it obscures the deeper ethical question at issue.

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None of this, though, is to say that abortion under such supposition is therefore unproblematic. It is to argue, instead, that the crucial moral issue needs to be re-located. Wrongful interference is a central concern in morality, but it isn’t the only one. We are also concerned with notions of neglect, abandonment, and disregard. These are issues that involve abrogations of positive responsibilities to help others, not injunctions against interfering with them.
If fetuses are persons, the question we really need to decide is what positive responsibilities, if any, do pregnant women have to continue gestational assistance? This is a question that takes us into far richer, and far more interesting, territory than that occupied by discussions of murder.

One issue it raises is: what do pregnant women owe to the fetuses they carry as a matter of general beneficence? Philosophers, of course, familiarly divide over the ambitions of beneficence, generically construed; but abortion raises distinct difficulties of its own. On the one hand, the beneficence called for here is of a particularly urgent kind: the stakes are life and death, and the pregnant woman is the only one who can render the assistance needed. It’s a rare (and, many of us will think, dreadful) moral theory that will think she faces no responsibilities to assist here: passing a drowning person for mere convenience when no one else is within shouting distance is a very good example of moral indecency. On the other hand, gestation is not just any activity. It involves sharing one’s very body. It brings with it an emotional intertwinenment that can reshape one’s entire life. It brings another person into one’s family. Being asked to gestate another person, that is, isn’t like being asked to write a check to support an impoverished child; it’s like being asked to adopt the child. Doing so is a caring, compassionate act; it is also an enormous undertaking that has reverberations for an entire lifetime. Deciding whether, and if so when, such action is obligatory rather than admirable is no light matter.

I don’t think moral theory has begun to address the rich questions at issue here. When are intimate actions owed to generic others? How do we weigh the sacrifice morality requires of us when it is measured, not in terms of risk, but of intertwinenment? What should we think of such obligations if the required acts would be performed under conditions of profound self-alienation? The type of issue paradigmatically represented by gestation—an assistance that combines life and death stakes with deep intimacy—is virtually nowhere discussed in moral theory. (We aren’t called upon in the usual course of events to save people’s lives by, say, having sexual intercourse with them.) By ignoring these issues, mainstream moral theory has ended up deeply underselling the moral complexity of abortion.

Difficult as these questions are, though, it is actually a second issue, I suspect, that is responsible for much of the passion that surrounds abortion on supposition of fetal personhood. On reflection, many will say, the issues confronting the pregnant woman aren’t about generic beneficence at all. The considerations she faces are not just those that would face someone uniquely well placed to serve as Good Samaritan to some stranger—as when one passes the drowning person: for the pregnant woman and fetus, crucially, aren’t strangers. If the fetus is a person, many will say, it is her child; and for this reason she has special responsibilities to meet its needs. In the end, I believe, much of the animating concern with abortion is not about what we owe to generic others; it’s about what parents owe their children.

But if it’s parenthood that is carrying normative weight, then we need an ethics of parenthood—a theory of what makes someone a parent in this thickly normative sense and what the contours of its responsibilities really are. This should raise something of a warning flag. Philosophers, it must be said, have by and large done a rather poor job when it comes to parenthood—variously avoiding it, romanticizing it, or assimilating it to categories, like contractual relations, to which it stands in paradigmatic contrast. This general shortcoming is evident in discussions of abortion, where two remarkably unhelpful models dominate.

One position, advocated by Judith Thomson and some of the most recent treatments of abortion, is a classically liberal one. It agrees that special responsibilities attach to parenthood but argues that parenthood is thereby a status that is entered into only by consent. That consent is usually tacit, to be sure—taking the baby home from the hospital qualifies; nonetheless, special responsibilities to a child accrue only when one voluntarily assumes them.

Such a model is surely an odd one. The model yields the plausible view that the rape victim does not face the very same set of duties as many other pregnant women, but it does so by implying that a man who fathered a child during a one-night stand has no special responsibilities toward that child unless he decides he does. Perhaps most strikingly, such a view has no resources for acknowledging that there may be moral reasons why one should consent to the status. Those who sustain a biological connection may have a tendency to enter the role of parent, but on this scheme it’s a mere psychological proclivity that rides atop nothing normative.

Another position is classically conservative. According to this view, the special responsibilities of parenthood are grounded in biological progenitorship. It is blood ties, to use the old-fashioned vernacular—"passing on one’s genes," in more current translation—that makes one a parent and grounds heightened responsibilities. This view has its own blind spot. It has the resources for agreeing that a man who fathers a child from a one-night stand faces special responsibilities for the child whether he likes it or not, but none for distinguishing between the responsibilities of someone who has served as the special steward for a child—who has engaged for years in the activity of parenting—and the responsibilities of someone who bears literally no connection beyond a genetic or causal contribution to existence. On this view, a sperm donor faces all the responsibilities of a social father.

What both positions have in common is the supposition that parenthood is an all or nothing affair. Applied to pregnancy, the gestating woman either owes everything we imagine we owe to the children we love and rear or she owes nothing beyond general beneficence unless she decides she does. But parenthood—like all familial relations—is surely a more complicated moral notion than this. Parenthood, and its attendant responsibilities, admit of layers. It has a crucial existence as a social role—something with institutionally defined entrances, exits, and expectations that can attach to us quite independently of what our self-conceptions might say. It also has a crucial existence as a relationship—an emotional connection, a shared history, an intertwinenment of lives. It is because of that intertwinenment that parents’ motivation to sacrifice is so often immediate. But it is also because of that relationship that even especially ambitious sacrifices are legitimately expected, and why failure to undertake them would be so problematic; absent unusual circumstances, it becomes a betrayal of the relationship itself. In short, parenthood is
not monolithic: some of the responsibilities we paradigmatically associate as parental attach, not to the role, but to the relationship that so often accompanies it.

These layers matter especially when we get to gestation, for the pregnant woman stands precisely at their intersection. If a fetus is a person, then there is surely an important sense in which she is its mother: to regard her as just a passing stranger uniquely able to help it would grossly distort the situation. But she is not yet a mother most thickly described—a mother in standing relationship with a child, with the responsibilities born of shared history and the enterprise of caretaking.

These demarcations are integral, I think, to understanding the distinctive sorts of conflicts that pregnancy can represent—including, most notably, the conflicts it can bring within the mantle of motherhood. Women sometimes decide to abort even though they regard the fetus they carry as their child, because they realize, grimly, that bringing this child into the world will leave too little room to care adequately for the children they are already raising. This is a conflict we cannot even name, much less arbitrate, on standard views—if the fetus is her child, how could she possibly choose to sacrifice its life unless the stakes are literally equivalent for the others? But this is to ignore the layers of parenthood. She occupies the role of mother to the fetus, but with the other children, she is, by dint of time, interaction, and intertwinenment, in a relationship of motherhood. The fetus is her baby, then—not just some passing stranger she alone can help—which is why this conflict brings the kind of agony it does. But if it is her child in the role sense only, she does not yet owe all that she owes to her other children. Depending on the circumstances, other family members with whom she is already in relationship may, tragically, come first.

None of this is to make light to the responsibilities pregnant women face on supposition of fetal personhood. If fetuses are persons, such responsibilities are surely profound. It is, rather, to insist that they admit of layer and degree, that these distinctions, while delicate, are crucial to capturing the types of tragedy—and the types of moral compromise-abortion can here represent.

The Sanctity of Life: Respect Revisited

... For many women who contemplate abortion, the desire to end pregnancy is not, or not centrally, a desire to avoid the nine months of pregnancy; it is to avoid what lies on the far side of those months—namely, motherhood. If gestation were simply a matter of rendering, say, somewhat risky assistance to help a burgeoning human life they've come across—if they could somehow render that assistance without thereby adding a member to their family—the decision faced would be a far different one. But gestation doesn't just allow cells to become a person; it turns one into a mother.

One of the most common reasons women give for wanting to abort is that they do not want to become a mother—now, ever, again, with this partner, or no reliable partner, with these few resources, or these many that are now, after so many years of mothering, slated finally to another cause. Nor does adoption represent a universal solution. To give up a child would be for some a life-long trauma; others occupy fortunate circumstances that would, by their own lights, make it unjustified to give over a child for others to rear. Or again—and most frequently—she doesn't want to raise a child just now but knows that if she does carry the pregnancy to term, she won't want to give up the child for adoption. Gestation, she knows, is likely to reshape her heart and soul, transforming her into a mother emotionally, not just officially; and it is precisely that transformation she does not want to undergo. It is because continuing pregnancy brings with it this new identity and, likely, relationship, then, that many feel it legitimate to decline.

But pregnancy's connection to motherhood also enters the phenomenology of abortion in just the opposite direction. For some women, that it would be her child is precisely why she feels she must continue the pregnancy—even if motherhood is not what she desired. To be pregnant is to have one's potential child knocking at one's door; to abort is to turn one's back on it, a decision, many women say, that would haunt them forever. On this view, the desire to avoid motherhood, so compelling as a reason to contracept, is uneasy grounds to abort: for once an embryo is on the scene, it isn't about rejecting motherhood, it's about rejecting one's child. Not literally, of course, since there is no child yet extant to stand as the object of rejection. But the stance one should take to pregnancy, sought or not, is one of acceptance: when a potential family member is knocking at the door, one should move over, make room, and welcome her in.

These two intuitive stances represent just profoundly different ways of gestating the situation of ending pregnancy. On the first view, abortion is closer to contraception—hardly equivalent, because it means the demise of something of value. But the desire to avoid the enterprise and identity of motherhood is an understandable and honorable basis for deciding to end a pregnancy. Given that there is no child yet on the scene, one does not owe special openness to the relationship that stands at the end of pregnancy's trajectory. On the second view, abortion is closer to exiting a parental relationship—hardly equivalent, for one of the key relata is not yet fully present. But one's decision about whether to continue the pregnancy already feels specially constrained: that one would be related to the resulting person exerts now some moral force. It would take especially grave reasons to refuse assistance here, for the norms of parenthood already have a toehold. Assessing the moral status of abortion, it turns out, then, is not just about assessing the contours of generic respect owed to burgeoning human life, it's about assessing the salience of impending relationship. And this is an issue that functions in different ways for different women—and, sometimes, in one and the same woman.

In my own view, until the fetus is a person, we should recognize a moral prerogative to decline parenthood and end the pregnancy. Not because motherhood is necessarily a burden (though it can be); but because it so thoroughly changes what we might call one's fundamental practical identity. The enterprise of mothering restructures the self—changing the shape of one's heart, the primary commitments by which one lives one's life, the terms by which one judges one's life a success or a failure. If the enterprise is eschewed and one
decides to give the child over to another, the identity of mother still changes the normative facts that are true of one, as there is now someone by whom one does well or poorly. And either way—whether one rears the child or lets it go—to continue a pregnancy means that a piece of one’s heart, as the saying goes, will forever walk outside one’s body. As profound as the respect we should have for burgeoning human life, we should acknowledge moral prerogatives over identity-constituting commitments and enterprises as profound as motherhood.

But I also don’t think this is the whole of the moral story. If women find themselves with different ways of gestating the prospective relationship involved in pregnancy, it is in part because they have different identities, commitments, and ideals that such a prospect intersects with—commitments which, while permissibly idiosyncratic, are morally authoritative for them. If a woman feels already duty-bound by the norms of parenthood to nurture this creature, it may be for the very good reason that, in an important personal sense, she already is its mother. She finds herself—perhaps to her surprise, happy or otherwise—with a maternal commitment to this creature. As philosophers forget but women and men have long known, something can be your child even if it is not yet a person. But taking on the identity of mother towards something just is to take on certain imperatives about its well-being as categorical. Her job is thus clear—it’s to help this creature reach its fullest potential. For other women, the identity is still something that can be assessed—tried on, perhaps accepted, but perhaps declined: in which case respect is owed, but is saved, or confirmed, for others—other relationships, other projects, other passions.

And again, if a woman feels she owes a stance of welcome to burgeoning human life that comes her way, it may be, not because she thinks such a stance authoritative for all, but because of the virtues around which her practical identity is now oriented: receptivity to life’s agenda, for instance, or responsiveness to that which is most vulnerable. For another woman, the executive virtues to be exercised tug in just the other direction: loyalty to treasured life plans, a commitment that it be she, not the chances of biology, that should determine her life’s course, bolstering self-direction after a life too long ruled by serendipity and fate.

Deciding when it is morally decent to end a pregnancy, it turns out, is an admixture of settling impersonally or universally authoritative moral requirements, and of discovering and arbitrating—sometimes after agonizing deliberation, sometimes in a decision no less deep for its immediacy—one’s own commitments, identity, and defining virtues.

A similarly complex story appears when we turn to the second theme. Another thread that appears in many women’s stories in the face of unsought pregnancy is respect for the weighty responsibility involved in creating human life. Once again, it is a theme that pulls and tugs in different directions.

In its most familiar direction, it shows up in many stories of why an unsought pregnancy is continued. Many people believe that one’s responsibility to nurture new life is importantly amplified if one is responsible for bringing about its existence in the first place. Just what it takes to count as responsible here is a point on which individuals diverge (whether voluntary but contracepted intercourse is different from intercourse without use of birth control, and again from intentionally deciding to become pregnant at the IVF clinic). But triggering the relevant standard of responsibility for creation, it is felt, brings with it a heightened responsibility to nurture: it is disrespectful to create human life only to allow it to wither. Put more rigorously, one who is responsible for bringing about a creature that has intrinsic value in virtue of its potential to become a person has a special responsibility to enable it to reach that end state.

But the idea of respect for creation is also, if less frequently acknowledged, sometimes the reason why women are moved to end pregnancies. As Barbara Katz Rothman (1985) puts it, decisions to abort often represent, not a decision to destroy, but a refusal to create. Many people have deeply felt convictions about the circumstances under which they feel it right for them to bring a child into the world—can it be brought into a decent world, an intact family, a society that can minimally respect its agency? These considerations may persist even after conception has taken place; for while the embryo has already been created, a person has not. Some women decide to abort, that is, not because they do not want the resulting child—indeed, they may yearn for nothing more, and desperately wish that their circumstances were otherwise—but because they do not think bringing a child into the world the right thing for them to do.

These are abortions marked by moral language. A woman wants to abort because she knows she couldn’t give up a child for adoption but feels she couldn’t bring the child the sort of life, or be the sort of parent, she thinks a child deserves; a woman who would have to give up the child thinks it would be unfair to bring a child into existence already burdened by rejection, however well grounded its reasons; a woman living in a country marked by poverty and gender apartheid wants to abort because she decides it would be wrong for her to bear a daughter whose life, like hers, would be filled with so much injustice and hardship.

Some have thought that such decisions betray a simple fallacy: unless the child’s life were literally going to be worse than non-existence, how can one abort out of concern for the future child? But the worry here isn’t that one would be imposing a harm on the child by bringing it into existence (as though children who are in the situations mentioned have lives that aren’t worth living). The claim is that bringing about a person’s life in these circumstances would do violence to her ideals of creating and parenthood. She does not want to bring into existence a daughter she cannot love and care for, she does not want to bring into existence a person whose life will be marked by disrespect or rejection.

Nor does the claim imply judgment on women who do continue pregnancies in similar circumstances—as though there were here an obligation to abort. For the norms in question, once again, need not be impersonally authoritative moral chums. Like ideals of good parenting, they mark out considerations all should be sensitive to, perhaps, but equally reasonable people may adhere to different variations and weightings. Still, they are normative for
those who do have them; far from expressing mere matters of taste, the ideals one does accept carry an important kind of categoricity, issuing imperatives whose authority is not reducible to mere desire. These are, at root, issues about integrity, and the importance of maintaining integrity over one’s participation in this enterprise precisely because it is so normatively weighty.

What is usually emphasized in the morality of abortion is the ethics of destruction; but there is a balancing ethics of creation. And for many people, conflict about abortion is a conflict within that ethics. On the one hand, we now have on hand an entity that has a measure of sanctity: that it has begun is reason to help it continue—perhaps especially if one had a role in its procreation—which is why even early abortion is not normatively equivalent to contraception. On the other hand, not to end a pregnancy is to do something else, namely, to continue creating a person, and for some women, pregnancy strikes in circumstances in which they cannot countenance that enterprise. For some, the sanctity of developing human life will be strong enough to tip the balance towards continuing the pregnancy; for others, their norms of respectful creation will hold sway. For those who believe that the norms governing creation of a person are mild relative to the normative telos of embryonic life, being a responsible creator means continuing to gestate, and doing the best one can to bring about the conditions under which that creation will be more respectful. For others, though, the normativity of fetal telos is mild and their standards of respectful creation high, and the lesson goes in just the other direction: it is a sign of respect not to continue creating when certain background conditions, such as a loving family or adequate resources, are not in place.

However one thinks these issues settle out, they will not be resolved by austere contemplation of the value of human life. They require wrestling with the rich meanings of creation, responsibility, and kinship. And these issues, I have suggested, are just as much issues about one’s integrity as they are about what is impersonally obligatory. On many treatments of abortion, considerations about whether or not to continue a pregnancy are exhausted by preferences, on the one hand, and universally authoritative moral demands, on the other; but some of the most important terrain lies in between.

References


**EXPLORING THE ISSUE**

**Is Abortion Immoral?**

**Critical Thinking and Reflection**

1. What different meanings can be given to the concepts of “human” and “person”? What do Lee and George mean when they describe the human embryo as a “whole” or “complete” organism?

2. Commentators who defend a pro-choice position sometimes argue that an early embryo has a value greater than the value of an ordinary tissue sample but less than the value of a person; how does that idea square with your views?

3. What different views of maternal commitment to a child or potential child are found in the YES and NO selections? What are the different views of parenthood?

4. Judith Thomson, whose earlier and very influential discussion of abortion is discussed in both of these selections, argued that abortion is permissible even if the fetus is a person. Explain her argument and whether or not you agree with it.

**Is There Common Ground?**

Surely the central issue in abortion is simply what “person” actually means. Political opposition to abortion has therefore centered in recent years on other topics in reproduction that raise the question of fetal personhood. See issue 9.

A common view about fetal personhood is that it somehow progresses slowly, that there is no one moment at which a person suddenly comes into existence. The embryo or early fetus is therefore less likely to be considered a person than the late-term fetus. In line with this, the Centers for Disease Control and Prevention reports that more than half of all abortions in the United States are performed during the first 8 weeks of pregnancy, and 88 percent before the 12th week. Although uncommon, abortions performed in the second trimester of pregnancy are very controversial. Most often the reasons are fetal abnormalities, illness in the mother, or late diagnosis of pregnancy in a teenager. The procedure, which involves delivering a dead but intact fetus, is particularly troubling. The technical term is “intact dilatation and extraction,” but the more commonly used (and emotionally loaded) term is “partial-birth abortion.”

In June 2000, the U.S. Supreme Court struck down a Nebraska law making it a crime to perform a partial-birth abortion. The five-to-four vote was the first abortion rights ruling in 8 years. Congress twice passed a bill banning partial-birth abortions, and President Bill Clinton twice vetoed it. President
George W. Bush, however, signed the Partial-Birth Abortion Ban Act of 2003. In June 2004, a federal judge in San Francisco struck down the bill, ruling that the law jeopardizes other legal forms of abortion and threatens the health of women. The U.S. federal government appealed, and the case of Gonzales v. Carhart went to the U.S. Supreme Court in 2006. In April 2007, by a five-to-four majority, the U.S. Supreme Court upheld the federal ban, which is limited to a particular, rarely used procedure.

In October 2008, the Court declined to review a New Jersey court’s decision in Acuna v. Turkish that state law did not require a physician to inform a woman considering a first-trimester abortion that it would result in killing an “existing human being.”

Additional Resources

Lawrence O. Gostin criticizes the Supreme Court ruling in Gonzales on grounds of its interference with clinical freedom, trust in the judiciary, and the autonomy of women (“Abortion Politics,” Journal of the American Medical Association [October 3, 2007]). For the Court opinion, with concurrence and dissents, see www.law.cornell.edu/supct/html/05-380.ZO.html.

While most attention focuses on federal challenges to Roe v. Wade, state legislatures have been very active in this arena. See www.stateusa.org for information on abortion regulations in specific states.


ISSUE 8

Should There Be Legal Limits on How Many Embryos Can Be Transferred into a Woman Who Wants to Be Pregnant?

YES: David Orentlicher, from “Multiple Embryo Transfers: Time for Policy,” Hastings Center Report (May/June 2010)


Learning Outcomes

After reading this issue, you should be able to:

- Discuss the potential harms and benefits, and the issues of parental rights, associated with multiple birth pregnancies when in vitro fertilization (IVF) is used.
- Discuss the regulation of assisted reproduction technologies in the United States.

ISSUE SUMMARY

YES: Professor of medicine David Orentlicher argues that the practice of transferring multiple embryos to a woman’s uterus, which came to public attention with the case of Nadya Suleman in 2009, is dangerous for both children and mothers and should be discouraged by federal policy.

NO: Lawyer John A. Robertson holds that professional guidelines on embryo transfer are enough, and that hard and fast legal limits on embryo transfer would be seen as violating parents’ rights.

Louise Brown, born in England in July 1978, was the first baby to have been conceived using IVF. She was known at that time as the first “test tube baby” because fertilization in IVF occurs outside the woman’s body (“in vitro” means...