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# PHILOSOPHERS AND THE ABORTION QUESTION

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## I

The philosopher's return to the public policy arena after his long battle with positivism has been understandably hesitant. The description offered by Marcuse in 1968 of a discipline obsessed with poking at tiny scraps of the world is judged no longer accurate. "The death of ethical and political argument over important public questions was only temporary."<sup>1</sup> It is difficult to think of a major policy or ethical dispute in American politics that has not been subjected to the scrutiny of philosophical analysis—capital punishment, affirmative action, income distribution, civil disobedience, conscientious objection, IQ measurement, vivisection, sexism, pacifism, racism among them.

There will be no attempt here to evaluate the general philosophical effort to clarifying public policy in general. We will focus on one issue which has received a great deal of attention—abortion—and suggest that it raises serious doubts concerning the viability of philosophy's recent excursion into public policy. The contribution that political theory might provide to this question will also be explored. Five essays provide the basis for our analysis. Judith Thomson's discussion of the

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fetus' right to life, Roger Wertheimer's analysis of the "liberal" and "conservative" attitude toward the fetus, and Michael Tooley's and Mary Ann Warren's attempt to define the concept of personhood in relation to the fetus.<sup>2</sup> The editors of *Philosophy and Public Affairs* have commended the pieces appearing in their issues for "introducing greater rigor and opening up entirely new questions." They have "permanently altered the character of the debate" and "constitute an indispensable source for anyone wishing to think further about the problem of abortion."<sup>3</sup>

## II. PHILOSOPHY AND THE BIZARRE SITUATION

What precisely is the nature of this "greater rigor" and what "new questions" have been opened up? The factual background of abortion is changing but in its essentials it remains the same as Sorano described it in the second century. Medical technology allows limited fetal surgery as well as safer abortions. It holds out the possibility of cloning and in vitro pregnancy. Yet at the date of this writing, women have babies and they do so as a result of sexual intercourse with men. But contemporary philosophical discussions center around the same questions: what constitutes human life (or "personhood")? Professor Warren notes that "the fundamental question in the long history of abortion is, 'How do you determine the humanity of a being?'" Thomson is, for the sake of argument, prepared to pretend that the fetus is a person. The traditional standards by which human life is defined are still accepted in varying degrees by the philosophers in question: the mother's sensation of life or "quickening," the "human resemblance" that the fetus bears, the potentiality of the fetus for personhood, the principles of consciousness as a basis for human life, the ability of the fetus to feel pain.

Yet one can only begin to appreciate the novelty in these articles by considering the conclusions. Thomson argues that to grant a fetus the right to life is not necessarily to place the prospective mother under a moral obligation to complete her pregnancy. Her defense of abortion includes not only cases of rape, malformed fetuses, and extreme economic conditions, but unplanned pregnancy as well.

She admits that it would be "indecent in the woman to request an abortion, and indecent in a doctor to perform it, if she is in her seventh month, and wants the abortion just to avoid the nuisance of postponing a trip abroad."<sup>4</sup> But "greedy, stingy and callous" actions need not be

unjust ones. While there may be cases in which abortion is unjust killing, Thomson suggests "there is room for much discussion and argument as to precisely which, *if any*" fit that category. Roger Wertheimer laments the nature of the whole abortion argument. "When seen in its totality the conservative's argument *is* the liberal's argument turned completely inside out." The arguments of pro- and antiabortionists "are equally strong and equally weak, for they are the same argument, an argument that can be pointed in either direction." We must point the argument in either direction, not by logic but by our response to the facts. He asks for the creation of a moderate position. Since the nature of the abortion argument seems to preclude a compromise, Wertheimer contends that the moderate "would have to *invent* a new set of moral categories and principles."<sup>5</sup>

The fears of antiabortionists are realized in the positions taken by Tooley and Warren. Both amputate the concept of parenthood from the description of the fetus. In Warren's words, "Some human beings are not people and there may be people who are not human beings."<sup>6</sup> Comatose patients and "defective" human beings fall in the former category as well as fetuses. Robots, computers, and extraterrestrial beings compose the latter. She concludes that to ascribe full moral rights to human nonpersons is "absurd." Tooley employs self-consciousness as a criterion for personhood. Fetuses certainly do not meet such a standard; nor do infants. Thus "infanticide during a time interval shortly after birth must be morally acceptable." Tooley solves what he calls a "practical moral problem" of infanticide by suggesting that it can be satisfactorily handled by choosing some period of time, such as a week after birth, "as the interval during which infanticide will be permitted." Yet even this seven-day grace period is subject to modification: "This interval could be modified once psychologists have established the point at which a human organism comes to believe that it is a continuing subject of experience and other mental states."<sup>7</sup>

In philosophical analysis the reader is cautioned against any revulsion that might result from reading these essays. Peter Singer has recently suggested that appealing to our feeling is a "superficial way of doing ethics," since "our ethical 'feelings' very often turn out to be inconsistent when their implications are unravelled." Philosophers must "demand reasons instead of feelings of horror."<sup>8</sup> As we shall see, this pride of philosophers under discussion shares his position as well.

To what reasons do these philosophers appeal? While the standards of analysis are traditional ones, the philosopher submits them to a

process of reasoning that can best be described as bizarre. Although the range of examples offered in support of abortion is full, there is a uniformity in the reasoning underlying them.

Thomson utilizes the following examples.

(1) "You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous, unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, 'Look, we're sorry the Society of Music Lovers did this . . . we would never have permitted it if we had known. But still they did it, and the violinist now is plugged into you. To unplug you will kill him. But never mind, its only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you'" (pp. 4-5). Is it morally incumbent on you to accede to this situation?

(2) "Suppose you find yourself trapped in a tiny house with a growing child. I mean a very tiny house, and a rapidly growing child—you are already up against the wall of the house and in a minute you'll be crushed . . . The child on the other hand won't be crushed to death; if nothing is done to stop him from growing he'll be hurt, but in the end he'll simply burst open the house and walk out a free man" (p. 8).

(3) "If Jones has found and fastened on a certain coat, which he needs to keep him from freezing, but which Smith also needs to keep him from freezing, then it is not impartiality that says 'I cannot choose between you' when Smith owns the coat" (p. 9).

(4) If I am sick to death, and the only thing that will save my life is the touch of Henry Fonda's cool hand on my fevered brow, then all the same, I have no right to be given the touch of Henry Fonda's cool hand on my fevered brow (p. 11).

(5) "If the room is stuffy and I therefore open a window to air it, and a burglar climbs in, it would be absurd to say, 'Ah, now he can stay, she's given him a right to the use of her house—for she is partially responsible for his presence there, having voluntarily done what enabled him to get in, in full knowledge, that there are such things as burglars, and that burglars do burgle'" (p. 14).

(6) "Suppose it were like this: people seeds drift about in the air like pollen, and if you open your windows, one may drift in and take root in your carpet or upholstery. You don't want children, so you fix up your windows with fine mesh

screens, the very best you can buy. As can happen, however, and on very, very rare occasions does happen, one of the screens is defective; and a seed drifts in and takes root. Does the person-plant who now develops have a right to use your house? Surely not" (p. 15).

(7) Suppose that a box of chocolates is given to one of two brothers. "There he sits stolidly eating his way through the box, his small brother watching enviously. Here we are likely to say 'You ought not to be so mean. You ought to give your brother some of those chocolates.' My own view is that it just does not follow from the truth of this that the brother has any right to any of the chocolates" (p. 16).

(8) "A violent aggressor nation has threatened us with death unless we allow ourselves to be enslaved by it." It has a "monster missile launcher" with interior tunnels that can only be triggered by a trained team of "very young children, two-year olds in fact." Either the (a) launcher is very difficult to replace or (b) the trained children. "Of course, some very high-minded people may say we must not bomb in either case: after all, the children are innocent! Lower-minded people, like me, will say we can bomb in either case" (p. 120-121).

Wertheimer's examples are these.

(9) "[R]espect for a fetus cannot be wrung from us as respect for a Negro can be. . . . After all, there is not much we can do with a fetus; either we let it out or we do it in. I have little hope of seeing a justification for doing one thing or the other unless this situation changes" (p. 44).

(10) "Close your eyes for a moment and imagine that . . . the relevant cutaneous and membranous shields become transparent from conception to parturition, so that when a mother puts aside her modesty and her clothing the developing fetus would be in full public view" (p. 47).

(11) "Or suppose instead, or in addition, that anyone could at any time pluck a fetus from its womb, air it, observe it, fondle it, and then stick it back in after a few minutes" (p. 47).

(12) Suppose that dogs or chimps could and did talk (p. 49).

(13) If we built robots with a psychology isomorphic with ours and a physical structure comparable to ours, should we award them civil rights? (p. 48).

Tooley's:

(14) "[I]t is obvious that if we encountered other 'rational minds,' such as Martians, the fact that their physiological make-up was very different from our own would not be grounds for denying them a right to life. Similarly, it is clear that the development of human form is not in itself a morally relevant event. . . . The appeal is . . . I think, purely emotional" (p. 69).

(15) "Suppose at some future time a chemical were to be discovered which

when injected into the brain of a kitten could cause the kitten to develop into a cat possessing a brain of the sort possessed by humans." Suppose some "neutralizing' chemical" could be injected to stop the development. Since it is not wrong to kill or arrest the development of chemically induced rational animals, "neither can it be seriously wrong to destroy a member of homo sapiens which lacks such properties, but will naturally come to have them" (pp. 75-76).

Warren's:

(16) "Suppose that our space explorer falls into the hands of an alien culture whose scientists decide to create a few hundred thousand or more human beings by breaking the body into component cells, and using these to create fully developed human beings, with, of course, his genetic code. We may imagine that each of these newly created men will have all of the original man's abilities, skills, knowledge, and so on, and also have an individual self-concept, in short, that each of them will be a bona fide (though hardly unique) person. . . . I maintain that in such a situation he would have every right to escape if he could, and thus deprive all of these potential people of their potential lives; for his right to life outweighs all of theirs together, in spite of the fact that they are genetically human, all innocent, and all have a very high probability of becoming people very soon, if only he refrains from acting" (p. 134).

Sixteen examples (and there are variations) are used to analyze the morality of abortion. But what examples! The world of the philosopher is filled with people spores, child missile launchers, Martians, talking robots, talking dogs, kittens, chimps, jig jaw cells that form human beings, transparent wombs, and cool hands—everything in fact but fetuses growing in wombs and infants cradled in parents' arms. The sixteen examples force one to ask why the philosopher's imagination is set loose to explore every possible moral dilemma *except* those which people confront in their everyday lives. The philosopher's response is that we cannot confront the human condition directly. One might pass off as philosophy a "taboo rather than a rational prohibition." The revulsion to infanticide "is like the reaction of previous generations to masturbation or oral sex."<sup>9</sup> For these writers visceral philosophizing must surely be avoided. If the cost involves discussion of injections into kittens rather than saline solutions into fetuses or Martian physiognomy rather than fetal development or Henry Fonda's cool hand rather than parental care, so be it.

Philosophers have moved into the world of fantasy in the same way and with the same verve that social scientists moved into the world of quantifiable facts. We are admonished to liberate ourselves, both from what are viewed as merely personal feelings and the superficiality of

unordered reality in order to steal ourselves for the consequences of the real objectivity of method. But the attainment of objectivity through fantasy exacts a cost that is quite high and not readily discernable. Nearly all of the sixteen examples are models of extreme moral situations. Either our own life is threatened or we are placed in a position of threatening others; or we find ourselves confronted with a set of facts that throw our moral habits into chaos. It is very questionable whether the moral dimensions of our lives can be clarified in circumstances in which the very basis for morality is no longer present. Most moral principles are based upon certain social conditions; among them are regularities in human relations. On these terms moral systems are able to encompass relatively complex rules involving individual calculations, assessments of the motivations of self and others. There are also sets of excuses for failure, under relative fixed circumstances, for doing one's duty. Moreover, moral systems are based upon the good faith of others. In extreme situations none of these conditions exist. People do not know whom to trust, and they cannot take for granted existing social roles; they no longer know which actions are excusable and which ones are not. The extreme condition forces us to contract whatever morality we have left. A quiet dispassionate egoism, consistent only with the demands of the situation, appears as a sensible, even laudable, mode of behavior. In situations of extreme suffering, say Thomson's tiny dwelling which houses you and the growing child, a calm and dispassionate murder, to save one's own life of course, can be seen as a necessary and even vaguely heroic action. What was one supposed to do? If one kept one's inner feelings intact, the victim would surely have understood. All of us can now thankfully turn our heads away and if not forget, push the incident into our unconscious. How can one speak of murder under such unbearable stress? This is why Thomson's eighth example is so helpful in her case. After partially laying her example before us, she whispers, "So far, so good. Nothing bizarre yet."<sup>10</sup> There is her warning. If the reader believes he still has hold of conventional moral sense, he is now forewarned. Not only does a violent aggressor nation threaten to destroy us, but it uses children to trigger its missiles. Any anticipated just war doctrine must now cope with murder of innocents. Only now she can make her case with ease and almost make it appear noble: "Of course, some very high-minded people may say we must not bomb in either case: after all, the children are innocent! Lower-minded people, like me, will say we can bomb in either case: after all, it is the violent aggressor nation which itself imposed that



risk on the children.”<sup>11</sup> It takes an extremely confident thinker to ascribe low-mindedness to her own views. But the confidence is justified. A bizarre fantasy is place before us. Our own survival is threatened and ironically we are forced to accept a “realistic” alternative. Anything other than a flat, calculating egoism is folly, an escape from “facts.” Never mind that the facts are fantasy or, at most, distillations of those bizarre real life situations that are so rare as to cause people that do live through them to refer to them as unreal. Think carefully and you will commend me, we are exhorted, place your high-minded morals aside. Thomson knows the argument is now won. Two pages were spent on constructing the analogy. Only a sentence needs to be devoted to abortion itself. The aborted fetus is not innocent, even in the technical sense. The belief in innocence is only “a play on the word” which made it seem that the fetus “did fall under it.”<sup>12</sup>

The use of the bizarre confrontation with a new reality serves the same purpose for the philosophers as the extreme situation based upon some life boat analogy. Seven of the sixteen examples deal with talking robots or chimps, “human” cats, Martians, or cloning. The desired effect here is to show us that our moral convictions are based upon limited experience. We are instructed to expand our conception of humanity in order to later collapse it when confronted with the issue of abortion. In dealing with the human physiognomy of the fetus, Tooley reminds us that Martians might not look like human beings at all, yet their different physiological make-up “would not be grounds for denying them a right to life.”<sup>13</sup> From this he draws the conclusion that “the development of the human form is not in itself a morally relevant event.”<sup>14</sup> Extraordinary conclusions follow from extraordinary examples. An argument that has served as the basis for refuting all manner of racial and ethnic prejudices for centuries, an argument that was given a timeless eloquence in Shakespeare’s Shylock, is now, on the basis of the rumination that there may be Martians who think like humans but look like tables or chairs, to be regarded as a “morally irrelevant event.” Our feelings of empathy and even compassion rest on an appeal that is “purely emotional.”

Let me quote from a recent account of abortion and let the reader judge whether the “purely emotional” reaction to the human form is an unimportant one without sociological and even philosophical import.<sup>15</sup>

One day driven by my own need to arrive at a measure of clarity, I go into the room, place my stuff on the floor next to the garbage cans and pull on a pair of gloves. Planting myself in front of the table, balanced, legs slightly apart, I remove with

one hand the lid of a bucket. . . . I look inside the bucket in front of me. There is a small naked person in there floating in bloody liquid—plainly the tragic victim of a drowning accident. Then, perhaps this was no accident because the body is purple with bruises and the face has the agonized tautness of one forced to die too soon. I have seen this face before, on a Russian soldier lying on a frozen snow-covered hill stiff with death and cold.

Does this emotional reaction—one which triggered an association with another human death—become morally irrelevant because there may be Martians who do not look like us? There are many differences—speech, mannerisms, customs, and, of course, variations in physical characteristics—which have led people to regard one another as inhuman. Yet what greater bond is available to allow human beings to reach across walls of hatred than the perception of the simple connection between their own image and that of others? We may even leave aside the mythical significance of the desire to have a god who also looks like us. The universal human reactions to a smile or to a grimace from pain allow us to forge a social bond. No doubt it is a meager enough basis for such a bond, often left fallow and corrupted by other social pressures. Yet one wonders what these philosophers have in mind as a substitute.

All of this is not to say that the possibility of advanced robots or Martians who do not look like us would mean that they should not be accorded “civil rights.” They would challenge our ordinary experience and we would have to find a common basis for experience.<sup>16</sup> Ironically, it is Tooley who uses the example of “human” kittens to challenge our views of the potentiality argument for the protection of the fetus. If Martians have a right to life, why is it so obvious that it is not wrong to kill chemically induced rational animals? Wertheimer, the most reflective writer of this group, manages to come close to the point.<sup>17</sup>

I would say that our present answer, whatever it is, is so disinterested as to count for nothing. . . . Odd as it may sound, I want to know exactly what the robot looks like and what it's like to live with it. I want to know how in fact we—how I—look at it, respond to it, and feel toward it. Hypothetical situations of this sort raise questions which seem answerable only when the situation is realized, and perhaps then there is no longer a real question.

Now this is a part of what we have been saying all along. But Wertheimer insists upon placing the robot and the fetus in the same hypothetical category. Don't we know a bit more about human development in the fetus? Mothers know how “quickenings” feels; we all know that in time

the fetus becomes a human being. The argument (9) that respect for the fetus cannot be wrung from us the way respect for the Negro can because "there is not much we can do with a fetus" is an inadequate one. Whatever strength it has is based upon the assertion that the fetus is some isolated being, biologically quite independent of "personhood." There is not much one can do with an infant either save cradle it, feed it and change its diapers. Yet recall the mock intergenerational argument that parents and grandparents have engaged in for some. The parents insist the infant has smiled while the skeptical grandparent attributes the response to an active imagination or the infant's indigestion. No doubt these are "purely emotional responses," ones which we would be admonished to remove from any respectable philosopher's repertoire. Yet this behavior tells us much about human relationships and the value that can be attached to human life. Parents and grandparents recognize a bond of overflowing love that exists independently of the interaction possibilities of the moment. Perhaps it is in anticipation of the relationship to come. In any case, a smile becomes all the more poignant in the case of an infant afflicted with Down's Syndrome or Tay-Sachs disease.

The argument that the death of a fetus is grieved less than the death of a person and thus intuitively tells us something about the rights of the unborn is certainly a better one than the use of talking kittens, but it nevertheless seems an inadequate description of the human condition. Grief is in some ways socially structured and induced in some ways independent of the actual life of human beings. Death can be treated with aplomb under certain social conditions (the creation of which these philosophers do little to prevent) but the grief for an unborn child is often deep and lasting.

There is no question that I am speaking of slippery slopes here. But we have seen that some have already been traversed by those philosophers who have advocated infanticide. What each of these philosophers fails to understand is that each policy recommendation that one makes sits on a slippery slope (my own included). Sometimes an effort to dig in to maintain one's own ground will uncover another slope even more slippery or even more steep.

### *III. GREEDY INDIVIDUALS*

The question of abortion, as important as it is, is only a part of larger questions about human life and the conditions under which we ought to

live. In this respect, the examples of these philosophers are even more instructive. Let us take these examples quite seriously: not just as clarificatory metaphors for arguments about abortion but as parables which can reveal their view of the world. Political philosophy can provide an invaluable service in this effort.

A number of years ago, Lewis Coser wrote a very provocative article in which he outlined the concept of a "greedy organization."<sup>18</sup> The greedy organization sought to reproduce individuals without a private self, sucking up the individual's substance, leaving only a shell. Coser suggested that part of the failure of utopian communities to survive for very long could be traced to the nature of their own organizational structure. Individuals were so socialized into community norms that they had no values to transmit *as parents* in the next generation. Coser's is a liberal argument, one which insists upon keeping a private arena for individual creativity and spontaneity. It is also a powerful argument that can be profitably reconsidered. But our philosophers of abortion have carried liberalism into the opposite direction. For they have conjured individuals that are able to reject the emotion of communal solidarity in a way that makes them "greedy individuals." They are not greedy in the traditional sense of being driven by money. Their greed is of a subtler and far more deadening sort. Joseph Schumpeter once complained that the economists had never fully appreciated the role of the family and the family home as the mainspring of the profit motive.<sup>19</sup>

Consciously or unconsciously, the (economists) analyzed the behavior of the man whose motives are shaped by such a home and who means to work and save primarily for *wife and children*. As soon as these fade out from the moral vision of the businessman, we have a different kind of homo economicus before us who cares for different things and acts in different ways.

Marx has also spoken as well about capitalism and its power to lift the "sentimental veil" from the family. Schumpeter could see capitalism's impact operating in a more diffuse fashion than a theory of wages.<sup>20</sup>

As soon as men and women learn the utilitarian lesson and refuse to take for granted the traditional arrangement that their social environment makes for them, as soon as they acquire the habit of weighing the individual advantages and disadvantages of any prospective course of action—or, as we might put it, as soon as they introduce into their private life a sort of inarticulate system of cost accounting—they cannot fail to become aware of the heavy personal sacrifices that family ties and especially parenthood entail under modern conditions. . . . The implication of this is not weakened but strengthened by the fact that the balance

sheet is likely to be incomplete, perhaps even fundamentally wrong. For the greatest of the assets, the contribution made by parenthood, escapes the rational searchlight of modern individuals who in their private as well as in public life, tend to focus attention to certain ascertainable details of immediate utilitarian relevance and to sneer at the idea of hidden necessities of human nature or the social organism.

Schumpeter concludes by noting how "capitalist" inventiveness produces contraceptive devices of "ever-increasing efficiency." Even the realism that his analysis was designed to reflect did not anticipate that abortion and infanticide would assume the dimensions they have as a result of this demystification process.

The image of the greedy individual pervades the discussion of each of our philosophers and it is a pity that it should take the form of the traditional liberal's doctrine of rights. This became quite clear in Thomson's treatment of abortion. Each of her examples is designed to make the case of a *right* to abortion on the part of the mother even if the fetus has the *right* to live. In (4) the sick person has no *right* to receive Henry Fonda's cool hand; in (5) the burglar has no *right* to burgle even if I leave my house unattended; in (7) the unfairly treated brother has no *right* to the greedy brother's chocolates; in (2) the child has no *right* to my house. The claimant in each case here, the sick person, the burglar, the brother, the child house crusher, is a surrogate of the fetus. (What an irony that while common sexual language has been condemned as dehumanizing, unborn children can by analogy be described as burglars and people spores!)

The person of diminished capacity, once a troublesome point for the traditional natural rights theorists, now becomes a cornerstone for our philosophers. A fetus cannot reason, cannot claim his or her rights; and may have a limited capacity for pain. How easy it is to make the case for its demise on a rights basis. Hobbes, always the most consistent of the social contract theorists, found the issue of diminished rights a mixed blessing in forming his account of obligation. Children were creatures who stood outside the covenant.<sup>21</sup>

Over naturall fooles, children, or mad-men there is no law, no more than over brute beasts; nor are they capable of the title just, or unjust; because they had never power to make any covenant, or understand the consequences thereof.

But this resolution created for Hobbes as many problems as it solved. Too committed to laying down a complete foundation based upon

reason, Hobbes denied that parental authority rested upon some independent basis: "[It] is not so derived from the generation, as if therefore the parent had Dominion over his child because he begot him."<sup>22</sup> Yet the child could hardly be said to consent to such authority until he or she came of age.

Hobbes appears to have solved the dilemma to his satisfaction by relying upon the fourth law of nature, the law of gratitude, as a basis for parental authority and child obligation. He did not, however, examine the parent's decision to rear children in the first place. A mother could "abandon or expose her child to death" in which case anyone could take possession of the infant. Nowhere in the stern world of the state of nature, as nasty, solitary, brutish, and short as it was, does Hobbes assume that abortions and infanticides will be widespread, quite the contrary. For Hobbes the family was "a little city." One commentator goes so far as to suggest that Hobbes' "state of nature appears to have been not altogether individualistic; rather it was composed of familial social units that faced each other as autonomous entities."<sup>23</sup>

With Hobbes parent-child relationships stand in an awkward juxtaposition. On the one hand, the cold rationalism of Hobbes prevents any real examination of the relationship; on the other hand, the force of the historical reality of the state of nature depends upon the proliferation of the family. If it did not the state of nature would have been even shorter than Hobbes himself had feared. But the world of the twentieth century philosopher is not at all so harsh. The most compelling motive for family organization, protection against invaders, is absent. Life is so much more comfortable, so much so that couples can contemplate esthetic abortions, balancing the gender and regulating the order of appearance of their children. Tooley introduces a further wrinkle in an attempt to reproduce Hobbesian calculation: that one ought perhaps provide compensation to a mother who does not abort a fetus.

Locke, the rights philosopher par excellence, also exempts madmen and children from the state of nature. But children have a redeeming faculty, the potential for full "manhood," and he makes this the foundation for his theory. Abandonment is for Locke a violation of moral duty since God is the "author" of all offspring.<sup>24</sup>

To turn him loose to unrestrained liberty, before he has Reason to guide him, is not allowing him the privilege of his Nature, to be free, but to thrust him among Brutes, and abandon him to a state as wretched, and as much beneath that of a Man, as theirs.

On the notion that it is the "privilege of his Nature" to be free, Locke grounded parental obligation. While this leaves the question of abortion open, it certainly condemns infanticide.

The main point, however, is that a rights model takes as its basis self-sufficient rational human beings. A good portion of humanity at any given moment does not fit that criterion, and children and those who are about to become children make up the bulk of the segment of that population. Since a rights model is designed to make us aware of our self-sufficiency as moral agents, it says little about solidarity among human beings. This may be harmless when one deals with an economically and emotionally secure population between the ages of 21 and 65 or with those who can demand entrance into that group. It is disastrous when one looks at the full range of human life, even if one does so only on a chronological basis.<sup>25</sup>

Let me illustrate by examining briefly how these philosophers approach issues which place a burden upon a rights view of reality. Two tendencies are predominant: (1) an unwillingness to examine relationships that cannot fit into a rights model; (2) a definite willingness, even a positive desire, to constrict the import of the description "human." Thomson is very much concerned that some people are inclined to use the term right too broadly: "This use of the term is perhaps so common that it cannot be called wrong; nevertheless it seems to me to be an unfortunate loosening of what we would be better to keep a tight rein on."<sup>26</sup> By keeping a tight rein on rights, Thomson is able to argue that "nobody is morally required to make large sacrifices, of health, of all other interests and concerns, of all other duties and commitments, for nine years, or even for nine months, in order to keep another person alive."<sup>27</sup> She asks: "In some views having a right to life includes having a right to be given at least the bare minimum one needs for continued life. But suppose that what in fact *is* the bare minimum a man needs for continued life is something he has not right at all to be given?"<sup>28</sup> Let us leave Henry Fonda and the violinist aside for the moment. Children require great sacrifices of health, time, money, even emotional stability. Women submit to discomfort, pain, reduced sexual capacity during pregnancy. They bear stretch marks. Parents lose sleep, give up hobbies, lose mobility, money, privacy. Even with comfortable incomes and pregnancy leaves, these are large sacrifices. So large, in fact, that portions of a whole generation inbred with a rights model have decided to remain childless. On Thomson's standards, *no* pregnancy ought to be brought to term on the basis of rights.

Now Thomson is not an insensitive person; she recognizes frivolous reasons for abortions. She mentions a woman who has an abortion in her seventh month just to avoid the nuisance of postponing a trip abroad. We will be merciful and not continue to explore the difference between a trip abroad and maintenance of a "life style" or general career advancement. If our interpretation of Thomson is correct and no abortion is a violation of right, she does, nevertheless seem willing to mark off some as "positively indecent." In fact in (1) [if the hook-up is only nine months], (4), and (7), she argues that help is required out of decency. But what is the difference between an indecent act and a violation of rights? Thomson argues that the law can help, that there is a distinction between a Minimally Decent Samaritan and a Good One. But we know that even if we refrain from everything the law forbids, and do not cheat, murder, and steal, but do *nothing to help* others, the resultant society could still be a very unpleasant one. The fact that there was no law broken when 38 persons stood by and watched Kitty Genovese die, indicates the importance of fostering relationships of aid when the law is silent. It appears that decency for Thomson is not equivalent to a supererogatory act, for the woman who aborts to go on her trip is subject to moral condemnation and the woman who unhooks the violinist is not. If this is the case, decency as a concept stands behind respect for rights and supererogation in terms of moral rectitude: And if that is the case, Thomson has presented a stronger case than we have been giving her credit for. But as with her discussion of rights, she is anxious here to keep a tight rein on the concept of decency. For decent actions often require sacrifice. The brother must give up his chocolates; Henry Fonda must fly in from California.

What Thomson fails to see is that decent actions are probably as important as respect for rights in a good society. A rights model does little to explain those personal relationships that lay beneath the contractual view of life and which set the tone for relationships among friends, lovers, parents, and children. Our anger at the refusal of one to share a bounty (even a box of chocolates) with another is as severe as if it were a violation of rights. To say that an action is "positively indecent" is a strong moral condemnation that admits an important violation of human interaction, one which if violated regularly would make respect for rights meaningless. Who would want to live in a society in which everyone was positively indecent to another and at the same time positively scrupulous in respecting another's rights? And would such a society be possible?



Warren and Tooley present the concept of the greedy individual in even clearer relief. Warren sniggers at Thomson's notion of indecency. "Whether or not it would be *indecent* (whatever that means) for a woman in her seventh month to obtain an abortion just to avoid having to postpone a trip to Europe, it would not, in itself, be *immoral*, and therefore it ought to be permitted."<sup>29</sup> She goes on to develop an extremely narrow definition of personhood. For Warren there are two senses of what we mean when we say an entity is human: the mere genetic sense, "the sense in which *any* member of the species is a human being, and no member of any other species could be";<sup>30</sup> and the moral sense. Warren insists that the latter sense is the only acceptable one. A genetic humanity is neither necessary nor sufficient for establishing that an entity is a person. We would naturally be puzzled about her unwillingness to accept genetic humanity as a necessary condition for personhood, but Warren reminds us of "highly advanced, self-aware" robots and extraterrestrial beings.

What makes one a person (or human in the moral sense)? Warren suggests five "traits" and we list them below<sup>31</sup>

- (1) consciousness (of objects and events external and/ or internal to the being), and In particular the capacity to feel pain;
- (2) reasoning (the *developed* capacity to solve new and relatively complex problems);
- (3) self-motivated activity (activity which is relatively independent of either genetic or direct external control);
- (4) the capacity to communicate, by whatever means, messages of indefinite variety of types, that is, not just an indefinite number of possible contents, but on indefinitely many possible topics;
- (5) the presence of self-concepts, and self-awareness, either individual or racial, or both.

She toys with the idea that (1) and (2) alone may be sufficient for personhood. (1) to (3) are "quite probably sufficient." In any case we are told that her claim is "so obvious" that "anyone who denied it, and claimed that a being which satisfied none of (1)—(5) was a person all the same, would thereby demonstrate that he had no notion at all of what a person is—perhaps because he had confused the concept of a person with that of a genetic humanity."<sup>32</sup> Note how deftly Warren plies her trade. A fetus *might* be able to feel pain, but surely he or she is unable to reason, especially with *developed* capacity. What is shocking about this

criterion (2) is that a two-year old may fail to meet it. What this means, my readers, and let us be direct about this, is that we must restrain our emotions and come to regard an infant as not a person at all but a mere clump of genetic humanity. Are not then the comatose patient, the schizophrenic, the catatonic, the unaided mute, the paraplegic also in danger of slipping into that awful category "genetic human." I do not mean to push Warren down a slippery slope: the terrain appears to be of her own making. See how swiftly she disposes of the potentiality argument: "Thus, in the *relevant* respects, a fetus, even a fully developed one, is considerably less personlike than is an average mature mammal, indeed the average fish."<sup>33</sup> The fetus, a being who in a few months will have a consciousness and the capacity to feel pain is *less personlike* than a "newborn guppy."

We must ask what the consequences are of this collapsing humanity, this clarification of the "confusion" over the genetic and moral senses of humanity. As with the other philosophers of abortion, Warren insists we cannot, must not, be guided by moral repulsion, "since mere emotional responses cannot take the place of moral reasoning in determining what ought to be permitted."<sup>34</sup> Let us leave emotion aside for a moment. Warren insists that "educating people to the kinds of moral distinctions we have been making here will enhance rather than erode" the level of respect for human life. There are very few general laws of social science but we can offer one that has a deserved claim: *the restriction of the concept of humanity in any sphere never enhances a respect for human life*. It did not enhance the rights of slaves, prisoners of wars, criminals, traitors, women, children, Jews, blacks, heretics, workers, capitalists, Slavs, Gypsies. The restriction of the concept of personhood in regard to the fetus will not do so either. Reminders that we are cruel to mammals and that we would need to extend humanity to Martians does not alter the picture. Nor does it change the result if the restriction is achieved in the context of philosophical analysis and through the concept of human rights.

It is interesting that Hobbes' dilemma should reappear in Warren's analysis. In responding to criticisms that her position justified infanticide, Warren reluctantly introduces emotion into her account. She is careful not to object personally to infanticide: "Inasmuch as most people, regardless of how they feel about the morality of abortion, consider infanticide a form of murder, this might appear to represent a serious flaw in my argument."<sup>35</sup> We must assume that if most people accepted the morality of infanticide, Warren would regard her argument

as complete. A causal empiricism is entered into this discussion. Since people "in this country and in this period of history" would be "deprived of a great deal of pleasure by an infant's destruction," infanticide is wrong for reasons analogous to those which make it wrong to destroy great works of art. Moreover, most of us would rather be taxed to support orphanages to preserve infants. But what if we resented these tax dollars and regarded them as a violation of our right to dispose of our income as we see fit? Warren has an answer for that as well.<sup>36</sup>

On the other hand, it follows from my argument that when an unwanted or defective infant is born into a society which cannot afford and/or is not willing to care for it, then its destruction is permissible. This conclusion will, no doubt, strike many people as heartless and immoral; but remember that the very existence of people who feel this way, and who are willing and able to provide care for unwanted infants, is reason enough to conclude that they should be preserved.

What she never answers or even considers is how likely support for children is going to be in the sort of society she describes. She rests her case on "the very existence of people who feel this way." But earlier we are told that such "mere emotional responses" were an illegitimate basis for moral reasoning. The protection against infanticide rests upon feelings which she has spent pages attempting to dispell.

#### IV. CONCLUSION

It is at this juncture that we can suggest a direction that the abortion philosophers might have taken. We have seen that all the attempts we have surveyed approached the question "what is human?" in terms of "what characteristics must an entity have in order to claim rights?" The focus upon rights has always produced interpretations which fluctuate wildly between two poles. One moves in the direction that requires an intergenerational view; the other challenges it. On the one hand is the emphasis on generality: *all* individuals have rights. On the other is their particularity: all *individuals* have rights. Wertheimer has been able to see this point, albeit in an oblique fashion. This, I think, is the import of his description of pro- and antiabortion views as the same argument pointed in different directions.

We have not examined the so-called "right-to-life" argument but it is clear that this position is based upon the generality dimension of the

rights model. Taken to its logical conclusion, this argument extends humanity beyond the fetus, beyond the zygote and regards future generations on a par with existing individuals. Thus Rawls regards the inclusion of future generations in his model of persons as a mere technical problem. The generality dimension is taken as given for Rawls: "from a moral point of view there are no grounds for discounting future well-being on the basis of pure time preference."<sup>37</sup> In a similar fashion, those advocating the generality dimension are much less concerned with an individual having the capacity to make a claim. "Having a claim" is the crucial test for inclusion in a moral community. In the words of William E. May, the disagreement between pro- and antiabortionists comes down to the question, "Is humanity, in the sense of being an entity that is the subject of rights, an endowment or an achievement?"<sup>38</sup>

On the other hand, the philosophers under discussion have remorsefully focused upon the particularity dimension of the rights model. To be human in any moral sense is to have the ability to be a holder of rights. To be a holder of rights one must pass a test of independence in order to establish that one is in a position to claim those rights. Wertheimer and Thomson, in differing degrees, waver on the question of the moral status of the fetus yet attempt to assign the unborn some residual or diminished rights.<sup>39</sup> Tooley and Warren insist upon making the future generation morally invisible. Since the unborn are only a part of the genetic humanity they are beyond the protection of the moral community. Unanswered is the question of why a moral community is regarded as an important part of human existence at all. Presumably it is designed merely for the convenience of each individual within each successive generation of the living. The accident of any single individual's existence in a particular slice of time becomes the sole standard for moral community. Upon death or infirmity and before adulthood, the individual is out of sight of those who compose the moral community of human beings. These philosophers have given us an image of truly "moral" human beings, perfectly secure in their endowed rights but without a memory of their own maturation.

Let us even suppose we could acquire these philosophers' taste for speculation. We might consider what human life would be like if all of us simply materialized on this earth full-grown with a capacity for reason and moral sense. Rights could be dated to the second, particularly if one departed in the same fashion. This is clearly the dream of these philosophers. For despite their flaunted independence from moral convention, they may only be intuiting conclusions already determined by an increasing atomistic society.

None of the philosophers we have reviewed have asked how individuals even within a single generation might be helped to establish relations of caring among one another. To pursue this direction involves seeking out patterns of affection and searching for conditions under which they can be sustained. These relationships of caring may provide the link between current generations and those of the future and the past. It does not require a romantic mind to see the man-woman relationship, as complicated as it is and as distorted as it can become, as the basis for a vital link between generations. Precisely how parenthood does serve to make and keep life human is a question beyond the scope of this paper.<sup>40</sup> But certainly the maintenance of an affective tie that unites generations is an important part of what it is to be human, as important as the five traits of moral humanity we have been offered. There is something seriously wrong with theories which insist upon viewing fetal development through analogies which emphasize their growth as alien and threatening. If abortion can only be justified on those terms, with the images of the unborn as intruders upon our rights, then abortion does indeed lessen our own humanity.

A recent study of the family suggests that the child-centered home is a relatively new historical development that is, in fact, a product of bourgeois culture.<sup>41</sup> Like most of the inventions of the bourgeois, the very success of the innovation determined its demise. Edward Shorter presents the following case.<sup>42</sup>

In the Bad Old Days, raising infants meant a demi-heroic struggle against death and dirt, and the mother whose sons survived diphtheria to take a job in the post office could count her life's work well done. But in the twentieth century, public health has battered down the risk of infant death to levels that put it outside the average mother's consciousness and the peer group will soon snatch her sons and daughters for a separate life in the private world of adolescence. So not a great deal remains.

If heroic motherhood is a thing of the past, so be it. These philosophers can hardly be held accountable for the triumphs and torments of bourgeois civilization. The pity is that they should assume the role of mindless gravediggers. Surely, philosophy deserves more. And so does bourgeois civilization for that matter.

## NOTES

1. Peter Singer, "Philosophers Are Back on the Job," *New York Times Magazine* (July 7, 1974). Singer's argument was meant to be taken quite literally. In "Bioethics: The Case of the Fetus" he demands participation of professional philosophers on National Commissions (*New York Review of Books*, August 5, 1976).
2. The Thomson, Tooley, and Wertheimer essays all appeared in *Philosophy and Public Affairs* between 1971 and 1972. They have been collected along with a critique of Thomson by John Finis and are presented as an anthology, *The Rights and Wrongs of Abortion*, Marshall Cohen, Thomas Nagel, and Thomas R. Scanlon [eds.] (Princeton, 1974). Citations are from this edition. Warren's essay appeared in the January 1973 issue of the *Monist*. It has been reprinted with her "Postscript on Infanticide" in *Today's Moral Problem's*, Richard Wasserstrom [ed.] (New York, 1975). Wasserstrom's collection also reprints Thomson's article along with selections from Roe versus Wade and Germain Grisez's *Abortion: The Myths, Realities, and the Arguments*.
3. Cohen et al., *The Rights and Wrongs of Abortion*, Preface.
4. Thomson, "A Defense of Abortion," p. 22.
5. Wertheimer, "Understanding the Abortion Argument," p. 41.
6. Warren, "On the Moral and Legal Status of Abortion," p. 131.
7. Tooley, "Abortion and Infanticide," p. 78.
8. Peter Singer, "Embryonic 'Bioethics,'" *New York Review of Books* (November 11, 1976), p. 46. The same sentiments are expressed by Warren (p. 133); Tooley (p. 54); Thomson (p. 3).
9. Tooley, "Abortion and Infanticide," p. 54-55. Tooley chides Wertheimer for his "superficial dismissal of infanticide."
10. This example is taken from Thomson's appropriately entitled essay, "Rights and Deaths," p. 121.
11. *Ibid.*, p. 122.
12. *Ibid.*, p. 123.
13. Tooley, "Abortion and Infanticide," p. 69. Even Martians are in danger here since Tooley suggests that "if their central nervous systems were radically different from ours . . . one would be forced to conclude that one was not justified in ascribing any rights to them."
14. *Ibid.*, p. 69.
15. Magda Denes, "Performing Abortion," *Commentary* (October 1976), p. 37. Denes also reports on the anxiety of medical personnel, a fact not unappreciated by administrators who "initiated" physicians and nurses with early abortions. Also see Francis Kane et al., "Emotional Reactions in Abortion Services Personnel," *Archives of General Psychiatry* 28 (March 1973) and J. F. McDermott, Jr. and E. F. Carr, "Abortion Repeal in Hawaii: An Unexpected Crisis in Patient Care," *American Journal of Orthopsychiatry* 41 (1971). Both studies concern medical personnel suffering from depression and anxiety.
16. It is the *actual exploration* of these experiences that separates the use of the bizarre situation in philosophy and science fiction.
17. Wertheimer, "Understanding the Abortion Argument," p. 48.
18. Léwis Coser, "Greedy Organizations," *European Journal of Sociology* (October 1967) p. 215.
19. Joseph Schumpeter, *Capitalism, Socialism and Democracy* (New York, 1942), p. 157.
20. *Ibid.*, p. 158.
21. Thomas Hobbes, *Leviathan*, C. B. McPherson [ed.] (Baltimore, 1968), p. 317.
22. *Ibid.*, p. 253.

23. Gordon J. Schochet, "Thomas Hobbes on the Family and the State of Nature," *Political Science Quarterly* 82 (September 1967), p. 442.

24. John Locke, *Two Treatises on Government*, Peter Laslett [ed.] (New York: New York, 1960), II, p. 352. For an excellent account of Locke's position on children and the family in general see Mary Lyndon Shanley, "Marriage Contract in Seventeenth Century Political Thought," paper delivered to the 1976 Annual Meeting of the APSA, Chicago, September 1976.

25. In fact, the independence of the young, Western professional may not even be as harmless as it appears. See the poignant examination of the relationship between mother and daughter in Bergman's "Face to Face."

26. Thomson, "A Defense of Abortion," p. 16.

27. *Ibid.*, pp. 17-18.

28. *Ibid.*, p. 11.

29. Warren, "On the Moral and Legal Status of Abortion," p. 125.

30. *Ibid.*, p. 128. Tooley is concerned that he confine the term "human" to "contexts where it is not philosophically dangerous" (p. 58). He much prefers a "self-consciousness" claim: "An organism possesses a serious right to life only if it possesses the concept of a self as a continuing subject of experiences and other mental states and believes that it is itself such a continuing entity" (p. 59).

31. Warren, "On the Moral and Legal Status of Abortion," p. 130.

32. *Ibid.*, p. 131.

33. *Ibid.*, pg. 132.

34. *Ibid.*, p. 133.

35. *Ibid.*, p. 135.

36. *Ibid.*, p. 136.

37. John Rawls, *A Theory of Justice* (Cambridge, 1971), p. 287. Rawls does not address himself to the abortion question but one can note that while the original position can include all generations, Rawls finds it necessary to add that "it is assumed that a generation cares for its immediate descendants, as fathers say they care for their sons" (p. 289).

38. William E. May, "Abortion and Man's Moral Being," in *Abortion: Pro and Con*, Robert C. Perkins [ed.] (Cambridge, 1974), p. 23.

39. In a later piece, Wertheimer is able to drag himself to the boundaries of the philosophical consensus that separates the moral status of a human from the concept of a human. Yet he again reviews pro- and antiabortion arguments without being able to tell the reader whether the fetus is human. However, animals apparently pose less of a problem for him. They have no human status, but perhaps they possess a "substantial moral status" ("Philosophy on Humanity" in *Abortion: Pro and Con*, p. 122). In the same volume, Tooley repeats his position and flavors his argument with some soothing social engineering. A society devoted to free abortion without guilt will produce "happy people," and happy people "if not necessarily constructive citizens, are not destructive ones." In addition, proper care for "defective children" is expensive and "will be thought to impose too great a sacrifice upon parents and taxpayers" (Michael Tooley and Laura Purdy, "Is Abortion Murder?" *Abortion: Pro and Con*, pp. 130-132).

40. Recent efforts in this direction seem cast primarily in a religious mold (see Paul Ramsey, *Fabricated Man*, New Haven, 1970; and Ralph Potter, "The Abortion Debate" in *The Religious Situation 1968*, Donal Culter [ed.] Boston, 1968; also see Alice Rossi, "A Biosocial Perspective on Parenting" *Daedalus* 106 (Spring 1977), pp. 1-32).

41. Edward Shorter, *The Making of the Modern Family* (New York, 1975).
42. *Ibid.*, p. 290.

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