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## A KANTIAN ARGUMENT AGAINST ABORTION \*

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If you asked ten years ago for my view on the morality of abortion, I would have said 'I don't have a view — the issue confuses me'. But now I think that abortion is wrong and that certain Kantian consistency requirements more or less force us into thinking this. Part III will present my reasoning. But first, in Parts I and II, I will show why various traditional and recent arguments on abortion do not work.

### I. A TRADITIONAL ANTI-ABORTION ARGUMENT

One common traditional argument goes this way:

The killing of innocent human life is wrong.

The fetus is innocent human life.

∴ The killing of the fetus is wrong.

This seemingly simple argument raises some difficult questions:

Is it 'always wrong' or 'normally wrong'? And if the latter, how do we decide the difficult cases?

Is the fetus 'innocent' if it is attacking the life or health or social well-being of the woman?

Is there a clear and morally-weighty distinction between 'killing' and 'letting die' — or between 'direct killing' and 'indirect killing'?

I will not discuss these important questions; a short article on abortion must leave many questions unanswered. But I will discuss this one: 'What does the

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term "human life" in the abortion argument mean? People sometimes presume that the meaning of the term is clear and that the major problem is the factual one of whether the fetus is 'human life' (in some clear sense). But I think that the term in this context is fuzzy and could be used in different senses.

Suppose we found a Martian who could discuss philosophy; would he be 'human'? We need to make distinctions: the Martian would be 'human' in the sense of 'animal capable of reasoning' ('rational animal') but not in the sense of 'member of the species *homo sapiens*' — so the Martian is 'human' in one sense but not in another. Which of these senses should be used in the abortion argument? The fetus is not yet an 'animal capable of reasoning'. Is it a 'member of the species *homo sapiens*'? That depends on whether the unborn are to be counted as 'members' of a species — ordinary language can use the term either way. In the biology lab we all (regardless of our views on abortion) distinguish between 'human' fetuses and 'mouse' fetuses — so in this sense (the 'genetic sense') the fetus is human. But in counting the number of mice or humans in the city of Chicago we all (regardless of our views on abortion) count only the born — so in this sense ('the population-study sense') the fetus is not a human. So is the fetus a 'human'? In two senses of this term that we have distinguished the answer would be 'NO' while in a third sense the answer would be 'YES'; whether the fetus is 'human' depends on what is meant by 'human'.

Human life has been claimed to begin at various points:

- (1) at conception.
- (2) when individuality is assured (and the zygote cannot split or fuse with another).
- (3) when the fetus exhibits brain waves.
- (4) when the fetus could live apart.
- (5) at birth.
- (6) when the being becomes self-conscious and rational.

Here we do not have a factual disagreement over when there emerges, in the same clear sense of the term, a 'human'; rather we have six ways to use the term. Answer (1) is correct for the 'genetic sense', (5) for the 'population-study sense', and (6) for the 'rational animal sense'; answers (2) to (4) reflect other (possibly idiosyncratic) senses. And there are likely other senses of 'human' besides these six. Which of these senses are we to use in the first premise ('The killing of innocent *human* life is wrong')? We get different

principles depending on which sense of the term ‘human’ we use.

Can we decide which sense to use by appealing to scientific data? No, we cannot. Scientific data can help us judge whether a specific individual is ‘human’ in some specified sense (e.g. sense (3) or sense (4)) but it cannot tell us which sense of ‘human’ to use in our principle.

Can we decide by ‘intuition’ – by following the principle that *seems* most correct? Note that moral intuitions depend greatly on upbringing and social milieu. Most Catholics were brought up to have intuitions in line with sense (1) (the ‘genetic sense’). Many ancient Romans and Greeks were trained to have sense (6) intuitions (allowing abortion *and* infanticide). And many Americans today are being brought up to have sense (5) intuitions (allowing abortion but not infanticide). Is there any way to resolve this clash – other than simply praising our own intuitions and insulting contrary ones? Can we carry on the argument further? I think we can and that the Kantian appeal to consistency provides a way to resolve the issue rationally.

## II. SOME RECENT PRO-ABORTION ARGUMENTS

Before getting to the Kantian approach, let us consider three arguments in defense of abortion. A common utilitarian argument goes this way:

Anything having a balance of good results (considering everyone) is morally permissible.

Abortion often has a balance of good results (considering everyone).

∴ Abortion often is morally permissible.

Here ‘good results’ is most commonly interpreted in terms of pleasure and pain (‘hedonistic act utilitarianism’) or the satisfaction of desires (‘preference act utilitarianism’).

The second premise (on the good results of abortion) is controversial. People defending the premise say that abortion often avoids difficulties such as the financial burden of a child on poor parents or on society, the disruption of schooling or a career, and the disgrace of an unwed mother; that where these problems or probable birth defects exist, the child-to-be would have less chance for happiness; and that abortion provides a ‘second chance’ to prevent a birth when contraceptives fail or people want to rethink an earlier choice. But opponents say that we can have equally good results without abortion, by using better social structures (more social support to-

ward unwed mothers and poor families, better adoption practices, wiser use of contraceptives, etc.) and scientific advances (better contraceptives, artificial wombs, etc.); and they say that abortion can harm the woman psychologically and promote callous attitudes toward human life.

I think the weaker link is the first premise — the argument's utilitarian basis. This premise would often justify killing, not just fetuses, but also infants and the sick or handicapped or elderly; many utilitarian reasons for not wanting a child around the house would also apply to not wanting grandmother around. And the premise would justify these killings, not just when they have great utilitarian benefits, but even when the utilitarian benefits are slight. Utilitarianism says that the killing of an innocent human being is justified whenever it brings even a slight increase in the sum-total of pleasure (or desire-satisfaction). This is truly bizarre.

Imagine a town where lynchings give the people great pleasure (or satisfy their desires) and the utilitarian sheriff lyncches an innocent person each week because the pleasure (or desire) of the masses slightly outweighs the misery (or frustration of desire) of the person to be lynched — and so the action has a slight gain in 'good results'. If the utilitarian principle is correct then the sheriff's lynchings are morally justified! But could anyone really believe that these lynchings would be morally justified?

I could pile up further examples of strange and unbelievable implications of utilitarianism. Utilitarians try to weasel out of these examples — but I think not with ultimate success. So my verdict on utilitarianism is that it would justify so many bizarre actions (including so many killings) that we would not accept this principle if we were consistent and realized its logical consequences.

My second pro-abortion argument is from Michael Tooley.<sup>1</sup> Tooley recognizes that humans have a right to life — presumably a greater right than utilitarians would recognize; but only humans in sense (6) ('rational animals' — or, as he puts it, 'persons') have such a right. The human fetus, while it might develop into a being with a right to life, presently has no more right to life than a mouse fetus. A fetus lacks a right to life because 'rights' connect with 'desires' conceptually — so that you can have rights only if you have desires. Tooley's argument is roughly this:

A being has a right to  $X$  only if it desires  $X$ .

No fetus desires its continued existence [because then the fetus

would have to have a concept of itself as a continuing subject of experiences — a concept it cannot as yet have].

∴ No fetus has a right to its continued existence.

Tooley claims that the first premise is not correct as it stands; we must add three qualifications to make the premise harmonize with our intuitions regarding rights:

A being has a right to  $X$  only if either it desires  $X$  or else it would desire  $X$  were it not (a) emotionally unbalanced or (b) temporarily unconscious or (c) conditioned otherwise.

He thinks the revised first premise will serve equally well (assuming obvious changes in the second premise); so he concludes that fetuses (and infants) do not have a right to life.

But we need further exceptions to make the first premise correspond to our intuitions. If we think that the dead have rights (e.g. to have their wills followed), then we need to add 'or (d) the being did desire  $X$  when it was alive'. If we think that a child who lacks the concept 'hepatitis' (and thus cannot desire not to be given this disease) does not thereby lose his right not to be given hepatitis, then we need to add 'or (e) the being would desire  $X$  if it had the necessary concepts'. If we think (as I do) that trees and canyons have the right not to be destroyed without good reason, then we would have to add some exception for this. And if we think that the fetus (or infant) has a right to life, then we need to add something like 'or (f) if the being were to grow up to be an adult member of the rational species to which it belongs then it would desire to have had  $X$ ' (presumably if the fetus were to grow up to be an adult member of *homo sapiens* then it would desire to have had continued life — and this, with (f), allows the fetus to have a right to life).<sup>2</sup> The trouble with Tooley's argument is that disagreements over the main issue of the right to life of the fetus translate into disagreements over how to qualify the first premise to make it mesh with 'our' intuitions; so the argument cannot decide the main issue.

The third argument in defense of abortion comes from Judith Jarvis Thomson and presumes that the fetus is a 'person' (in some undefined sense):<sup>3</sup>

One who has voluntarily assumed no special obligation toward another person has no obligation to do anything requiring great personal cost to preserve the life of the other.

Often a pregnant woman has voluntarily assumed no special obligation toward the unborn child (a person), and to preserve its life by continuing to bear the unborn child would require great personal cost.

∴ Often a pregnant woman has no obligation to continue to bear the unborn child.

The first premise here seems acceptable. Normally you have no obligation to risk your life to save a drowning stranger; if you risk your life then you do more than duty requires. But it is different if you are a lifeguard who has assumed a special obligation — then you have to try to save the person, even at the risk of your own life. Thomson thinks that a woman getting pregnant intending to have a child is voluntarily accepting a special obligation toward the child. However if the pregnancy is accidental (the result of a contraceptive failure or rape) then the woman has assumed no such special obligation and, if continuing to bear the child requires great personal cost, the woman has no obligation to continue to bear it; the woman would do no wrong if she has an abortion — but if she continues to bear the child in spite of personal cost then she is doing something heroic, something beyond what duty requires.

Thomson gives an analogy. Suppose you wake up and find yourself in bed with an unconscious violinist attached to your circulatory system (his friends attached him to you because this was needed to save his life); if you disconnect him before nine months, he will die — otherwise he will live. Even though it might be praiseworthy to make the sacrifice and leave him plugged in for nine months, still you have no obligation to do so; it would be morally right for you to disconnect him, even though he will die. So also if you are pregnant under the conditions mentioned above, then, even though it might be praiseworthy to make the sacrifice and bear the child for nine months, still you have no obligation to do so; it would be morally right for you to have the child removed, even though it will die.

The first premise of Thomson's argument is slightly misstated. A motorist has a special obligation toward a person he has injured in an accident, even though he has not voluntarily assumed this obligation in any clear way (the accident happened against his will and despite all reasonable precautions — just like an accidental pregnancy). Similarly a child has a special obligation towards its parents — even though he has not voluntarily assumed this obligation. Not all special obligations toward others are 'voluntarily assumed' — so

these two words should be crossed out in the premises.

My main objection to the argument can be put as a dilemma. Utilitarianism is either true or false. If it is *true*, then the first premise is false (because then the person has an obligation to do whatever has the best consequences – despite personal cost); and so the pro-abortion utilitarian Peter Singer rejects this premise, since it conflicts with utilitarianism. But if utilitarianism is *false*, then presumably Sir David Ross was right in claiming it to be morally significant that others:

... stand to me in relation of promisee to promiser, of creditor to debtor, of wife to husband, of *child to parent* [my emphasis], of friend to friend, of fellow countryman to fellow countryman, and the like; and each of these relations is the foundation of a *prima facie* duty, which is more or less incumbent on me according to the circumstances of the case.<sup>4</sup>

If utilitarianism is *false*, then likely a person has greater obligations toward his or her offspring than toward a violinist stranger – and so the second premise, which claims that the pregnant woman has no special responsibility toward her own child, begins to look doubtful (recall that we crossed out the words ‘voluntarily assumed’).

### III. A KANTIAN ARGUMENT

My Kantian approach to abortion stresses consistency. In discussing utilitarianism I appealed to simple logical consistency (not accepting a principle without accepting its recognized logical consequences). Here I will use two further consistency requirements (based on the universalizability and prescriptivity principles) and a third consistency requirement derived from these two (a version of the golden rule). The following argument displays these three requirements and how the third follows from the first two:

If you are consistent and think that it would be all right for someone to *do A to X*, then you will think that it would be all right for someone to *do A to you* in similar circumstances.

If you are consistent and think that it would be *all right* for someone to *do A to you* in similar circumstances, then you will *consent* to the idea of someone doing *A* to you in similar circumstances.

∴ If you are consistent and think that it would be *all right to do A*

*to X*, then you will consent to the idea of someone *doing A to you* in similar circumstances. (GR)

The first premise can be justified by the ‘universalizability principle’, which demands that we make similar ethical judgments about the same sort of situation (regardless of the individuals involved); so if I think it would be all right to rob *Jones* but I don’t think it would be all right for someone to rob *me* in an imagined exactly similar situation, then I violate universalizability and am inconsistent. The second premise can be justified by the ‘prescriptivity principle’, which demands that we keep our ethical beliefs in harmony with the rest of our lives (our actions, intentions, desires, and so forth); so if I think an act would be all right but I don’t consent to it being done, then I violate prescriptivity and am inconsistent. These and further derived requirements can be formulated and justified in a rigorous way; but I won’t do that here. The conclusion GR is a form of the golden rule; if I think it would be all right to rob *Jones* but yet I don’t consent to (or approve of) the idea of someone robbing me in similar circumstances, then I violate GR and am inconsistent.<sup>5</sup>

The following argument combines an instance of GR with an empirical premise about your desires:

If you are consistent and think that *stealing is normally permissible*, then you will consent to the idea of *people stealing from you* in normal circumstances. (From GR)

You do not consent to the idea of people stealing from you in normal circumstances.

∴ If you are consistent then you will not think that stealing is normally permissible.

Most of us do not consent to the idea of people stealing from us in normal circumstances; so we would not be consistent if we held ‘Stealing is normally permissible’ (since then we would violate consistency principle GR). This argument shows that, given that a person has a certain desire (one that most people can be presumed to have), he would not be consistent if he held a given ethical view. The conclusion here concerns the consistency of holding the ethical judgment and not the judgment’s truth. A person could escape this conclusion if he did not care if people robbed him; then the second premise would be false. Throughout the rest of this article I will

generally assume that the reader desires not to be robbed or blinded or killed; if you would love people to rob or blind or kill you (or you don't care whether they do this to you) then most of my further conclusions will not apply to you.

It might seem easy to argue similarly on abortion. How would you like it if someone had aborted you? Should we say that you don't like the idea and so you can't consistently hold that abortion is permissible? Or should we say that as an ignorant fetus you would not have known enough to have been against the abortion – so that this argument won't work?

Let us slow down and try to understand GR more clearly before applying it to abortion. Properly understood, GR has to do with my *present reaction* toward a hypothetical case – not with how I *would react if I were* in the hypothetical case. A few examples may clarify things. Consider this chart:

<i>Issue</i>	<i>Right Question</i>	<i>Wrong Question</i>
Do I think it permissible to rob <i>X</i> while <i>X</i> is asleep?	Do I now consent to the idea of my being robbed while asleep?	If I were robbed while I was asleep would I then (while asleep) consent to this action?

(In the 'Right Question' and 'Wrong Question' I presume implicit 'in relevantly or exactly similar circumstances' qualifiers). The point of this chart is that, by GR, to be consistent in answering YES to the ISSUE I must also answer YES to the RIGHT QUESTION – but I need not answer YES to the WRONG QUESTION. Presumably I would answer NO to the RIGHT QUESTION; when I consider the hypothetical case of my-being-robbed-while-asleep I find that I now (while awake) do not consent to or approve of this action. But the WRONG QUESTION has to do with what I, if I were robbed while asleep, would consent to or approve of while thus asleep (and thus ignorant of the robbery); GR, correctly understood, has nothing to do with the WRONG QUESTION. Let me give another example:

<i>Issue</i>	<i>Right Question</i>	<i>Wrong Question</i>
Do I think it permissible to violate <i>X</i> 's will after his death?	Do I now consent to the idea of my will being violated after my death?	If my will is violated after my death, would I then (while dead) consent to this action?

Again GR has to do with my *present reaction* toward a hypothetical case in which I may imagine myself as asleep or dead or even a fetus — but not with how I *would* react *while* asleep or dead or a fetus *in* the hypothetical situation.

But is it legitimate to apply the golden rule to our treatment of a fetus? Consider a case not involving abortion:

<i>Issue</i>	<i>Right Question</i>	<i>Wrong Question</i>
Do I think it permissible to blind <i>X</i> while <i>X</i> is a fetus?	Do I now consent to the idea of my having been blinded while a fetus?	If I were blinded while a fetus, would I then (while a fetus) consent to this action?

Suppose that you had a sadistic mother who, while pregnant with you, contemplated injecting herself with a blindness-drug which would have no effect on her but which would cause the fetus (you) to be born blind and remain blind all its (your) life. Your mother could have done this to you. Do you think this would have been all right — and do you consent to the idea of her having done this? The answer is a clear NO — and an equally clear NO regardless of the time of pregnancy that we imagine the injection taking place. We could then argue as we did concerning stealing:

If you are consistent and think that *blinding a fetus is normally permissible*, then you will consent to the idea of *your having been blinded while a fetus* in normal circumstances. (From GR)

You do not consent to the idea of your having been blinded while a fetus in normal circumstances.

∴ If you are consistent then you will not think that blinding a fetus is normally permissible.

Again, with most people the second premise will be true — most people can be presumed not to consent to (or approve of) the idea of this act having been done to them.

Is it legitimate to apply the golden rule to our treatment of a fetus? Surely it is — the above reasoning makes good sense. If a pregnant woman is about to do something harmful to the fetus (like taking drugs or excessive alcohol

or cigarettes), it seems appropriate for her to ask, 'How do I now react to the idea of my mother having done this same thing while she was pregnant with me?' Applying the golden rule to a fetus raises no special problems.

But someone might object as follows:

Seemingly your view forces us to accept that the fetus has rights (e.g. not to be blinded by the drug), even though you avoid saying it is human. But your question about '*my* having been blinded *while a fetus*' presupposes that the fetus and my present self are identical — the *same human being*. So aren't you presupposing (despite your earlier discussion on the many senses of 'human') that the fetus is 'human'?

While my way of phrasing the question may presuppose this, I put my question this way only for the sake of convenience; I could re-phrase my question so that it doesn't presuppose this:

Do I now consent to the idea of:

- my having been blinded while a fetus?
- the fetus that developed into my present self having been blinded?
- Helen E. Gensler having taken the blindness-drug while pregnant in 1945?

The second and third way to phrase the question do not presuppose that the fetus and my present self are identical or the same human being; if you wish, you may rephrase my comments thusly (I will keep to the first way of speaking for the sake of brevity). I am against the idea of the drug having been given, not because I think that the fetus was in some metaphysical sense the *same human being* as I, but rather because if this drug had been given then I would be blind all my life.

The application of GR to abortion is similar — we need only switch from a blindness-drug (which blinds the fetus) to a death-drug (which kills the fetus). Your mother could have killed you through such a death-drug (or other means of abortion). Do you think this would have been all right — and do you consent to (or approve of) the idea of her having done this? Again the answer is a clear NO — and an equally clear NO regardless of the time of pregnancy that we imagine the killing taking place. We can argue as we did concerning blinding:

If you are consistent and think that *abortion is normally permissible*, then you will consent to the idea of *your having been aborted* in normal circumstances. (From GR)

You do not consent to the idea of your having been aborted in normal circumstances.

∴ If you are consistent then you will not think that abortion is normally permissible.

Again with most people the second premise will be true – most people can be presumed not to consent to (or approve of) the idea of this act having been done to them. So insofar as most people take a consistent position they will not think that abortion is normally permissible.

#### IV. SIX OBJECTIONS

- (1) Surely a utilitarian would see your two drug cases as very different – the blindness-drug inflicts needless future suffering while the death-drug simply eliminates a life. Why wouldn't a utilitarian, moved by the greatest total happiness principle, approve of the death-drug having been given to him if this would have led to a greater total happiness? Wouldn't such a person be a consistent upholder of the view that abortion is normally permissible?

My answer is that utilitarianism leads to so many strange moral implications that, even if the utilitarian could be consistent on this one case, still he would likely be inconsistent in his overall position. I previously claimed that utilitarianism would justify so many bizarre actions (including so many killings) that we would not accept this principle if we were consistent and realized its logical consequences. But if there are few (if any) consistent utilitarians then there would be few (if any) consistent utilitarian upholders of the view that abortion is normally permissible.

- (2) Let us consider a *non-utilitarian* who approves of abortion but not infanticide or the blindness-drug. Why couldn't such a person consent to the idea of himself having been aborted under imagined or actual normal circumstances – and hence be consistent?

Such a person could be consistent, but only with bizarre desires about how he himself is to be treated. Let us suppose that someone combined these three judgments (as many are being brought up to do in our society today):

- (a) It is wrong to blind an adult or child or infant or fetus.
- (b) It is wrong to kill an adult or child or infant.
- (c) It is permissible to kill a fetus.

To be consistent the person would have to answer these questions as follows:

Do you consent to the idea of my  
*blinding* you now? – NO!

Do you consent to the idea of my having  
*blinded* you yesterday? – NO!

... when you were five years old? – NO!

... when you were one day old? – NO!

... before you were born? – NO!

Do you consent to the idea of my  
*killing* you now? – NO!

Do you consent to the idea of my having  
*killed* you yesterday? – NO!

... when you were five years old? – NO!

... when you were one day old? – NO!

... before you were born? – YES!!!

It is strange that the person *disapproves equally* of being *blinded* at the various times – and *disapproves equally* of being *killed* at the first four times – and yet *approves* of being *killed* at the last time. He opposes the blindings because, regardless of their timing, the effect would be the same – he would be blind. He opposes the killings at the first four times because, again, the effect would be the same – he would not be alive; but killing at the fifth time has the same effect – why should he not oppose this killing also? The ‘YES’ here seems rather strange. Of course one who thinks his life not worth living could give a ‘YES’ to the idea of his having been killed while a fetus – but then we would expect ‘YES’ answers to the idea of his being killed at the other times as well (which would make him inconsistent if he held that it is wrong to kill an adult or child or infant). So while a non-utilitarian who combines the three judgments above *could* in principle have such desires and be consistent, still this is unlikely to happen very often – to be consistent the person would have to have very bizarre desires.<sup>6</sup>

- (3) Are you saying that the desires that most people have are good while unusual (or ‘bizarre’) desires are bad? How would you establish this?

I am not saying that common desires are good while unusual desires are bad – often the reverse is true; and sometimes when we notice a conflict between our moral beliefs and our desires we come to change our desires and not our moral beliefs. Rather I am appealing to desires that most people have because I am trying to develop a consistency argument to show that most people who adopt the pro-abortion view are inconsistent. In effect I am challenging those who adopt such a view by saying, ‘Look at what you would have to desire in order to be consistent in your position – go and think about it and see whether you really are consistent!’ I claim that most of the time the pro-abortionist will find that he is indeed inconsistent – he is supporting

certain moral principles about the treatment of others that he would not wish to have been followed in their actions toward him.

- (4) You question the consistency of one who holds that abortion is permissible but infanticide is wrong. But let us see whether you are consistent. If it would have been wrong for your parents to have aborted you, wouldn't it have been equally wrong for your parents not to have conceived you? The result would have been the same — there would be no YOU!

My answer here is complicated. My first reaction is to disapprove of the idea of my parents not having conceived me — to think it would have been wrong for them to have abstained or used contraceptives; but the universalizing requirement forces me to change my reactions (whereas it doesn't do this in the abortion case). If I hold 'It is wrong to have an abortion in this (my) case', then I have to make the same judgment in all similar cases; but I can easily hold (consistently) that it is in general wrong to have an abortion. But if I hold 'It is wrong to prevent conception (by e.g. abstinence or contraceptives) in this (my) case', then I again have to make the same judgment in all similar cases; but I cannot hold (consistently) that it is in general wrong to prevent conception — since this would commit me to desiring a policy which would bring about a greatly overpopulated world of starving people at a very low level of human life. So, in order to be consistent, I change my first reaction and come to judge that it would have been morally permissible for my parents not to have conceived (me) on August 5, 1944 — but instead perhaps to have conceived (someone else) on September 5, 1944 — and I come, though with hesitation, to consent to the possibility of their having done this. To sum up: the universalizing requirement points to an important difference between *aborting* and *not conceiving* — I can 'will as a universal law' a general prohibition against *aborting*, but not one against *non-conceiving*.

- (5) Suppose that reason does force up into thinking that abortion is *normally* wrong. What does 'normal' here mean? And aren't the 'abnormal' or 'unusual' cases the more important and difficult ones to deal with? So isn't your conclusion unimportant?

My claim that abortion is *normally* wrong means that it is wrong in at least the great majority of cases but perhaps not in every conceivable case (e.g. in the imagined case where Dr. Evil will destroy the world if we do not do an abortion). The question of what unusual conditions (if any) would justify abortion is indeed important and difficult. But I think that, in light of the very

great number of ‘convenience abortions’ going on today, the issue of the general moral status of abortion is at the present time far more important.

- (6) Suppose that *if I am consistent* I cannot hold that abortion is normally permissible. What if I do not care about being consistent? Can you prove to me that I ought to care? Or can you prove to me that abortion is wrong without appealing to consistency?

You ask too much. Suppose I give you an argument proving that abortion is wrong (or that you ought to care about being consistent). If you do not already care about consistency, why should you not accept the premises of my argument and yet reject the conclusion? This would be inconsistent – but you don’t care about this! So you presumably wouldn’t care about any argument I might give – in effect you are saying that you have a closed mind. If you don’t care about consistency then I am wasting my time when I try to reason with you.

#### NOTES

<sup>1</sup> Tooley’s original argument was in ‘Abortion and infanticide’, *Philosophy and Public Affairs* 2 (1972), pages 37–65. He added refinements to his view in *Philosophy and Public Affairs* 2 (1973), pages 419–32; in a postscript to a reprint of his article in *The Rights and Wrongs of Abortion*, edited by Marshall Cohen, Thomas Nagel, and Thomas Scanlon (Princeton, 1974), pages 80–84; and in ‘In defense of abortion and infanticide’, in *The Problem of Abortion* (second edition), edited by Joel Feinberg (Belmont CA, 1984), pages 120–134. (The weak link in the latest version of the argument seems to be this premise: ‘An individual existing at one time cannot have desires at other times unless there is at least one time at which it possesses the concept of a continuing self or mental substance’; this entails the incredible ‘Your pet kitten cannot yesterday have had a desire to eat unless at some time it possesses the concept of a continuing self or mental substance.’) Peter Singer’s defense of abortion and infanticide rests partially on Tooley’s earlier argument but mainly on his preference utilitarianism; see chapters 4 and 6 of his *Practical Ethics* (Cambridge, 1979).

<sup>2</sup> Clause (f) was phrased to skirt the issue of Tooley’s “superkittens” who become rational if given a certain drug; my intuitions on the superkitten (and Frankenstein) cases are not very clear. Clause (f) may require further refinement.

<sup>3</sup> ‘A defense of abortion’, in *Philosophy and Public Affairs* 1 (1971), pages 47–66.

<sup>4</sup> *The Right and the Good* (Oxford, 1930), page 19.

<sup>5</sup> In arguing the abortion issue, I use some ideas from the theory of R. M. Hare, as developed in his *Freedom and Reason* (Oxford, 1963). Hare once wrote an article on ‘Abortion and the golden rule’ (*Philosophy and Public Affairs* 4 (1975), pages 201–22); but his approach differs from mine. Hare rests his case on ‘We should do to others what we are glad was done to us’ and on the fact that we are glad that we were conceived, not aborted, and not killed as infants; hence we too ought to conceive, not abort, and not kill infants (but contraception, abortion, and infanticide turn out to have only a weak *prima facie* wrongness which is easy to override by other considerations). Hare’s formulation of the golden rule here is defective; if I am *glad* my parents gave me hundreds

of gifts each Christmas, then perhaps to be consistent I must hold that it would be *good* to do this same thing in similar circumstances — but I need not hold that one *should* do this (that it is a *duty*). Also my conclusions differ from Hare's — I view abortion and infanticide (but not failing-to-conceive) as seriously wrong; I think my conclusions are what Hare's theory should lead to.

<sup>6</sup> On the Tooley/Singer view the cut-off point for killing is not birth but rather when the child comes to desire its continued existence as a continuing subject of experiences. (It is unclear at what age this happens.) My response to this view would be much like the above, except that the killing side of the chart would now have one more YES. (I would like to thank my colleague Paul Moser for some helpful suggestions on the first draft of this paper.)

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