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Abortion and Infanticide

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This essay deals with the question of the morality of abortion and infanticide. The fundamental ethical objection traditionally advanced against these practices rests on the contention that human fetuses and infants have a right to life. It is this claim which will be the focus of attention here. The basic issue to be discussed, then, is what properties a thing must possess in order to have a serious right to life. My approach will be to set out and defend a basic moral principle specifying a condition an organism must satisfy if it is to have a serious right to life. It will be seen that this condition is not satisfied by human fetuses and infants, and thus that they do not have a right to life. So unless there are other substantial objections to abortion and infanticide, one is forced to conclude that these practices are morally acceptable ones. In contrast, it may turn out that our treatment of adult members of other species—cats, dogs, polar bears—is morally indefensible. For it is quite possible that such animals do possess properties that endow them with a right to life.

I. ABORTION AND INFANTICIDE

One reason the question of the morality of infanticide is worth examining is that it seems very difficult to formulate a completely satisfactory liberal position on abortion without coming to grips with the

1. I am grateful to a number of people, particularly the Editors of *Philosophy & Public Affairs*, Rodelia Hapke, and Walter Kaufmann, for their helpful comments. It should not, of course, be inferred that they share the views expressed in this paper.

infanticide issue. The problem the liberal encounters is essentially that of specifying a cutoff point which is not arbitrary: at what stage in the development of a human being does it cease to be morally permissible to destroy it? It is important to be clear about the difficulty here. The conservative's objection is not that since there is a continuous line of development from a zygote to a newborn baby, one must conclude that if it is seriously wrong to destroy a newborn baby it is also seriously wrong to destroy a zygote or any intermediate stage in the development of a human being. His point is rather that if one says it is wrong to destroy a newborn baby but not a zygote or some intermediate stage in the development of a human being, one should be prepared to point to a *morally relevant* difference between a newborn baby and the earlier stage in the development of a human being.

Precisely the same difficulty can, of course, be raised for a person who holds that infanticide is morally permissible. The conservative will ask what morally relevant differences there are between an adult human being and a newborn baby. What makes it morally permissible to destroy a baby, but wrong to kill an adult? So the challenge remains. But I will argue that in this case there is an extremely plausible answer.

Reflecting on the morality of infanticide forces one to face up to this challenge. In the case of abortion a number of events—quickening or viability, for instance—might be taken as cutoff points, and it is easy to overlook the fact that none of these events involves any morally significant change in the developing human. In contrast, if one is going to defend infanticide, one has to get very clear about what makes something a person, what gives something a right to life.

One of the interesting ways in which the abortion issue differs from most other moral issues is that the plausible positions on abortion appear to be extreme positions. For if a human fetus is a person, one is inclined to say that, in general, one would be justified in killing it only to save the life of the mother.² Such is the extreme conservative

2. Judith Jarvis Thomson, in her article "A Defense of Abortion," *Philosophy & Public Affairs* 1, no. 1 (Fall 1971): 47-66, has argued with great force and ingenuity that this conclusion is mistaken. I will comment on her argument later in this paper.

position.³ On the other hand, if the fetus is not a person, how can it be seriously wrong to destroy it? Why would one need to point to special circumstances to justify such action? The upshot is that there is no room for a moderate position on the issue of abortion such as one finds, for example, in the Model Penal Code recommendations.⁴

Aside from the light it may shed on the abortion question, the issue of infanticide is both interesting and important in its own right. The theoretical interest has been mentioned: it forces one to face up to the question of what makes something a person. The practical importance need not be labored. Most people would prefer to raise children who do not suffer from gross deformities or from severe physical, emotional, or intellectual handicaps. If it could be shown that there is no moral objection to infanticide the happiness of society could be significantly and justifiably increased.

Infanticide is also of interest because of the strong emotions it arouses. The typical reaction to infanticide is like the reaction to incest or cannibalism, or the reaction of previous generations to masturbation or oral sex. The response, rather than appealing to carefully formulated moral principles, is primarily visceral. When philosophers

3. While this is the position conservatives tend to hold, it is not clear that it is the position they ought to hold. For if the fetus is a person it is far from clear that it is permissible to destroy it to save the mother. Two moral principles lend support to the view that it is the fetus which should live. First, other things being equal, should not one give something to a person who has had less rather than to a person who has had more? The mother has had a chance to live, while the fetus has not. The choice is thus between giving the mother more of an opportunity to live while giving the fetus none at all and giving the fetus an opportunity to enjoy life while not giving the mother a further opportunity to do so. Surely fairness requires the latter. Secondly, since the fetus has a greater life expectancy than the mother, one is in effect distributing more goods by choosing the life of the fetus over the life of the mother.

The position I am here recommending to the conservative should not be confused with the official Catholic position. The Catholic Church holds that it is seriously wrong to kill a fetus directly even if failure to do so will result in the death of *both* the mother and the fetus. This perverse value judgment is not part of the conservative's position.

4. Section 230.3 of the American Law Institute's *Model Penal Code* (Philadelphia, 1962). There is some interesting, though at time confused, discussion of the proposed code in *Model Penal Code—Tentative Draft No. 9* (Philadelphia, 1959), pp. 146-162.

themselves respond in this way, offering no arguments, and dismissing infanticide out of hand, it is reasonable to suspect that one is dealing with a taboo rather than with a rational prohibition.⁵ I shall attempt to show that this is in fact the case.

II. TERMINOLOGY: "PERSON" VERSUS "HUMAN BEING"

How is the term "person" to be interpreted? I shall treat the concept of a person as a purely moral concept, free of all descriptive content. Specifically, in my usage the sentence "X is a person" will be synonymous with the sentence "X has a (serious) moral right to life."

This usage diverges slightly from what is perhaps the more common way of interpreting the term "person" when it is employed as a purely moral term, where to say that X is a person is to say that X has rights. If everything that had rights had a right to life, these interpretations would be extensionally equivalent. But I am inclined to think that it does not follow from acceptable moral principles that whatever has any rights at all has a right to life. My reason is this. Given the choice between being killed and being tortured for an hour, most adult humans would surely choose the latter. So it seems plausible to say it is worse to kill an adult human being than it is to torture him for an hour. In contrast, it seems to me that while it is not seriously wrong to kill a newborn kitten, it is seriously wrong to torture one for an hour. This *suggests* that newborn kittens may have a right not to be tortured without having a serious right to life. For it seems to be true that an individual has a right to something whenever it is the case that, if he wants that thing, it would be wrong for others to deprive him of it. Then if it is wrong to inflict a certain sensation upon a kitten if it doesn't want to experience that sensation, it will follow that the kitten has a right not to have sensation inflicted upon it.⁶ I shall re-

5. A clear example of such an unwillingness to entertain seriously the possibility that moral judgments widely accepted in one's own society may nevertheless be incorrect is provided by Roger Wertheimer's superficial dismissal of infanticide on pages 69-70 of his article "Understanding the Abortion Argument," *Philosophy & Public Affairs* 1, no. 1 (Fall 1971): 67-95.

6. Compare the discussion of the concept of a right offered by Richard B. Brandt in his *Ethical Theory* (Englewood Cliffs, N.J., 1959), pp. 434-441. As Brandt points out, some philosophers have maintained that only things that can *claim* rights can have rights. I agree with Brandt's view that "inability to claim does not destroy the right" (p. 440).

turn to this example later. My point here is merely that it provides some reason for holding that it does not follow from acceptable moral principles that if something has any rights at all, it has a serious right to life.

There has been a tendency in recent discussions of abortion to use expressions such as "person" and "human being" interchangeably. B. A. Brody, for example, refers to the difficulty of determining "whether destroying the foetus constitutes the taking of a human life," and suggests it is very plausible that "the taking of a human life is an action that has bad consequences for him whose life is being taken."⁷ When Brody refers to something as a human life he apparently construes this as entailing that the thing is a person. For if every living organism belonging to the species *homo sapiens* counted as a human life, there would be no difficulty in determining whether a fetus inside a human mother was a human life.

The same tendency is found in Judith Jarvis Thomson's article, which opens with the statement: "Most opposition to abortion relies on the premise that the fetus is a human being, a person, from the moment of conception."⁸ The same is true of Roger Wertheimer, who explicitly says: "First off I should note that the expressions 'a human life,' 'a human being,' 'a person' are virtually interchangeable in this context."⁹

The tendency to use expressions like "person" and "human being" interchangeably is an unfortunate one. For one thing, it tends to lend covert support to antiabortionist positions. Given such usage, one who holds a liberal view of abortion is put in the position of maintaining that fetuses, at least up to a certain point, are not human beings. Even philosophers are led astray by this usage. Thus Wertheimer says that "except for monstrosities, every member of our species is indubitably a person, a human being, at the very latest at birth."¹⁰ Is it really *indubitable* that newborn babies are persons? Surely this is a wild contention. Wertheimer is falling prey to the confusion naturally

7. B. A. Brody, "Abortion and the Law," *Journal of Philosophy*, LXVIII, no. 12 (17 June 1971): 357-369. See pp. 357-358.

8. Thomson, "A Defense of Abortion," p. 47.

9. Wertheimer, "Understanding the Abortion Argument," p. 69.

10. *Ibid.*

engendered by the practice of using “person” and “human being” interchangeably. Another example of this is provided by Thomson: “I am inclined to think also that we shall probably have to agree that the fetus has already become a human person well before birth. Indeed, it comes as a surprise when one first learns how early in its life it begins to acquire human characteristics. By the tenth week, for example, it already has a face, arms and legs, fingers and toes; it has internal organs, and brain activity is detectable.”¹¹ But what do such physiological characteristics have to do with the question of whether the organism is a person? Thomson, partly, I think, because of the unfortunate use of terminology, does not even raise this question. As a result she virtually takes it for granted that there are some cases in which abortion is “positively indecent.”¹²

There is a second reason why using “person” and “human being” interchangeably is unhappy philosophically. If one says that the dispute between pro- and anti-abortionists centers on whether the fetus is a human, it is natural to conclude that it is essentially a disagreement about certain facts, a disagreement about what properties a fetus possesses. Thus Wertheimer says that “if one insists on using the raggy fact-value distinction, then one ought to say that the dispute is over a matter of fact in the sense in which it is a fact that the Negro slaves were human beings.”¹³ I shall argue that the two cases are not parallel, and that in the case of abortion what is primarily at stake is what moral principles one should accept. If one says that the central issue between conservatives and liberals in the abortion question is whether the fetus is a person, it is clear that the dispute may be either about what properties a thing must have in order to be a person, in order to have a right to life—a moral question—or about whether a fetus at a given stage of development as a matter of fact possesses the properties in question. The temptation to suppose that the disagreement must be a factual one is removed.

It should now be clear why the common practice of using expressions such as “person” and “human being” interchangeably in discussions of abortion is unfortunate. It would perhaps be best to avoid

11. Thomson, “A Defense of Abortion,” pp. 47-48.

12. *Ibid.*, p. 65.

13. Wertheimer, “Understanding the Abortion Argument,” p. 78.

the term "human" altogether, employing instead some expression that is more naturally interpreted as referring to a certain type of biological organism characterized in physiological terms, such as "member of the species *Homo sapiens*." My own approach will be to use the term "human" only in contexts where it is not philosophically dangerous.

III. THE BASIC ISSUE: WHEN IS A MEMBER OF THE SPECIES *HOMO SAPIENS* A PERSON?

Settling the issue of the morality of abortion and infanticide will involve answering the following questions: What properties must something have to be a person, i.e., to have a serious right to life? At what point in the development of a member of the species *Homo sapiens* does the organism possess the properties that make it a person? The first question raises a moral issue. To answer it is to decide what basic¹⁴ moral principles involving the ascription of a right to life one ought to accept. The second question raises a purely factual issue, since the properties in question are properties of a purely descriptive sort.

Some writers seem quite pessimistic about the possibility of resolving the question of the morality of abortion. Indeed, some have gone so far as to suggest that the question of whether the fetus is a person is in principle unanswerable: "we seem to be stuck with the indeterminateness of the fetus' humanity."¹⁵ An understanding of some of the sources of this pessimism will, I think, help us to tackle the problem. Let us begin by considering the similarity a number of people have noted between the issue of abortion and the issue of Negro slavery. The question here is why it should be more difficult to decide whether abortion and infanticide are acceptable than it was to decide whether slavery was acceptable. The answer seems to be that in the case of slavery there are moral principles of a quite uncontroversial sort that settle the issue. Thus most people would agree to some such principle as the following: No organism that has experiences, that is capable of thought and of using language, and that has harmed no one, should

14. A moral principle accepted by a person is *basic for him* if and only if his acceptance of it is not dependent upon any of his (nonmoral) factual beliefs. That is, no change in his factual beliefs would cause him to abandon the principle in question.

15. Wertheimer, "Understanding the Abortion Argument," p. 88.

be made a slave. In the case of abortion, on the other hand, conditions that are generally agreed to be sufficient grounds for ascribing a right to life to something do not suffice to settle the issue. It is easy to specify other, purportedly sufficient conditions that will settle the issue, but no one has been successful in putting forward considerations that will convince others to accept those additional moral principles.

I do not share the general pessimism about the possibility of resolving the issue of abortion and infanticide because I believe it is possible to point to a very plausible moral principle dealing with the question of *necessary* conditions for something's having a right to life, where the conditions in question will provide an answer to the question of the permissibility of abortion and infanticide.

There is a second cause of pessimism that should be noted before proceeding. It is tied up with the fact that the development of an organism is one of gradual and continuous change. Given this continuity, how is one to draw a line at one point and declare it permissible to destroy a member of *Homo sapiens* up to, but not beyond, that point? Won't there be an arbitrariness about any point that is chosen? I will return to this worry shortly. It does not present a serious difficulty once the basic moral principles relevant to the ascription of a right to life to an individual are established.

Let us turn now to the first and most fundamental question: What properties must something have in order to be a person, i.e., to have a serious right to life? The claim I wish to defend is this: 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.

My basic argument in support of this claim, which I will call the self-consciousness requirement, will be clearest, I think, if I first offer a simplified version of the argument, and then consider a modification that seems desirable. The simplified version of my argument is this. To ascribe a right to an individual is to assert something about the *prima facie* obligations of other individuals to act, or to refrain from acting, in certain ways. However, the obligations in question are conditional ones, being dependent upon the existence of certain desires of the individual to whom the right is ascribed. Thus if an individual

asks one to destroy something to which he has a right, one does not violate his right to that thing if one proceeds to destroy it. This suggests the following analysis: "A has a right to X" is roughly synonymous with "If A desires X, then others are under a prima facie obligation to refrain from actions that would deprive him of it."¹⁶

Although this analysis is initially plausible, there are reasons for thinking it not entirely correct. I will consider these later. Even here, however, some expansion is necessary, since there are features of the concept of a right that are important in the present context, and that ought to be dealt with more explicitly. In particular, it seems to be a conceptual truth that things that lack consciousness, such as ordinary machines, cannot have rights. Does this conceptual truth follow from the above analysis of the concept of a right? The answer depends on how the term "desire" is interpreted. If one adopts a completely behavioristic interpretation of "desire," so that a machine that searches for an electrical outlet in order to get its batteries recharged is described as having a desire to be recharged, then it will not follow from this analysis that objects that lack consciousness cannot have rights. On the other hand, if "desire" is interpreted in such a way that desires are states necessarily standing in some sort of relationship to states of consciousness, it will follow from the analysis that a machine that is not capable of being conscious, and consequently of having desires, cannot have any rights. I think those who defend analyses of the concept of a right along the lines of this one do have in mind an interpretation of the term "desire" that involves reference to something more than behavioral dispositions. However, rather than relying on this, it seems preferable to make such an interpretation explicit. The following analysis is a natural way of doing that: "A has a right to X" is roughly synonymous with "A is the sort of thing that is a subject of experiences and other mental states, A is capable of desiring X, and if A does desire X, then others are under a prima facie obligation to refrain from actions that would deprive him of it."

The next step in the argument is basically a matter of applying this analysis to the concept of a right to life. Unfortunately the expression

¹⁶ Again, compare the analysis defended by Brandt in *Ethical Theory*, pp. 434-441.

“right to life” is not entirely a happy one, since it suggests that the right in question concerns the continued existence of a biological organism. That this is incorrect can be brought out by considering possible ways of violating an individual’s right to life. Suppose, for example, that by some technology of the future the brain of an adult human were to be completely reprogrammed, so that the organism wound up with memories (or rather, apparent memories), beliefs, attitudes, and personality traits completely different from those associated with it before it was subjected to reprogramming. In such a case one would surely say that an individual had been destroyed, that an adult human’s right to life had been violated, even though no biological organism had been killed. This example shows that the expression “right to life” is misleading, since what one is really concerned about is not just the continued existence of a biological organism, but the right of a subject of experiences and other mental states to continue to exist.

Given this more precise description of the right with which we are here concerned, we are now in a position to apply the analysis of the concept of a right stated above. When we do so we find that the statement “A has a right to continue to exist as a subject of experiences and other mental states” is roughly synonymous with the statement “A is a subject of experiences and other mental states, A is capable of desiring to continue to exist as a subject of experiences and other mental states, and if A does desire to continue to exist as such an entity, then others are under a *prima facie* obligation not to prevent him from doing so.”

The final stage in the argument is simply a matter of asking what must be the case if something is to be capable of having a desire to continue existing as a subject of experiences and other mental states. The basic point here is that the desires a thing can have are limited by the concepts it possesses. For the fundamental way of describing a given desire is as a desire that a certain proposition be true.¹⁷ Then,

17. In everyday life one often speaks of desiring things, such as an apple or a newspaper. Such talk is elliptical, the context together with one’s ordinary beliefs serving to make it clear that one wants to eat the apple and read the newspaper. To say that what one desires is that a certain proposition be true should not be construed as involving any particular ontological commitment. The point is merely that it is sentences such as “John wants it to be the case

since one cannot desire that a certain proposition be true unless one understands it, and since one cannot understand it without possessing the concepts involved in it, it follows that the desires one can have are limited by the concepts one possesses. Applying this to the present case results in the conclusion that an entity cannot be the sort of thing that can desire that a subject of experiences and other mental states exist unless it possesses the concept of such a subject. Moreover, an entity cannot desire that it itself *continue* existing as a subject of experiences and other mental states unless it believes that it is now such a subject. This completes the justification of the claim that it is a necessary condition of something's having a serious right to life that it possess the concept of a self as a continuing subject of experiences, and that it believe that it is itself such an entity.

Let us now consider a modification in the above argument that seems desirable. This modification concerns the crucial conceptual claim advanced about the relationship between ascription of rights and ascription of the corresponding desires. Certain situations suggest that there may be exceptions to the claim that if a person doesn't desire something, one cannot violate his right to it. There are three types of situations that call this claim into question: (i) situations in which an individual's desires reflect a state of emotional disturbance; (ii) situations in which a previously conscious individual is temporarily unconscious; (iii) situations in which an individual's desires have been distorted by conditioning or by indoctrination.

As an example of the first, consider a case in which an adult human falls into a state of depression which his psychiatrist recognizes as temporary. While in the state he tells people he wishes he were dead. His psychiatrist, accepting the view that there can be no violation of an individual's right to life unless the individual has a desire to live, decides to let his patient have his way and kills him. Or consider a related case in which one person gives another a drug that produces a state of temporary depression; the recipient expresses a wish that he were dead. The person who administered the drug then kills him. Doesn't one want to say in both these cases that the agent did some-

that he is eating an apple in the next few minutes" that provide a completely explicit description of a person's desires. If one fails to use such sentences one can be badly misled about what concepts are presupposed by a particular desire.

thing seriously wrong in killing the other person? And isn't the reason the action was seriously wrong in each case the fact that it violated the individual's right to life? If so, the right to life cannot be linked with a desire to live in the way claimed above.

The second set of situations are ones in which an individual is unconscious for some reason—that is, he is sleeping, or drugged, or in a temporary coma. Does an individual in such a state have any desires? People do sometimes say that an unconscious individual wants something, but it might be argued that if such talk is not to be simply false it must be interpreted as actually referring to the desires the individual *would* have if he were now conscious. Consequently, if the analysis of the concept of a right proposed above were correct, it would follow that one does not violate an individual's right if one takes his car, or kills him, while he is asleep.

Finally, consider situations in which an individual's desires have been distorted, either by inculcation of irrational beliefs or by direct conditioning. Thus an individual may permit someone to kill him because he has been convinced that if he allows himself to be sacrificed to the gods he will be gloriously rewarded in a life to come. Or an individual may be enslaved after first having been conditioned to desire a life of slavery. Doesn't one want to say that in the former case an individual's right to life has been violated, and in the latter his right to freedom?

Situations such as these strongly suggest that even if an individual doesn't want something, it is still possible to violate his right to it. Some modification of the earlier account of the concept of a right thus seems in order. The analysis given covers, I believe, the paradigmatic cases of violation of an individual's rights, but there are other, secondary cases where one also wants to say that someone's right has been violated which are not included.

Precisely how the revised analysis should be formulated is unclear. Here it will be sufficient merely to say that, in view of the above, an individual's right to X can be violated not only when he desires X, but also when he *would* now desire X were it not for one of the following: (i) he is in an emotionally unbalanced state; (ii) he is temporarily unconscious; (iii) he has been conditioned to desire the absence of X.

The critical point now is that, even given this extension of the con-

ditions under which an individual's right to something can be violated, it is still true that one's right to something can be violated only when one has the conceptual capability of desiring the thing in question. For example, an individual who would now desire not to be a slave if he weren't emotionally unbalanced, or if he weren't temporarily unconscious, or if he hadn't previously been conditioned to want to be a slave, must possess the concepts involved in the desire not to be a slave. Since it is really only the conceptual capability presupposed by the desire to continue existing as a subject of experiences and other mental states, and not the desire itself, that enters into the above argument, the modification required in the account of the conditions under which an individual's rights can be violated does not undercut my defense of the self-consciousness requirement.¹⁸

To sum up, my argument has been that having a right to life presupposes that one is capable of desiring to continue existing as a subject of experiences and other mental states. This in turn presupposes both that one has the concept of such a continuing entity and that one believes that one is oneself such an entity. So an entity that lacks such a consciousness of itself as a continuing subject of mental states does not have a right to life.

It would be natural to ask at this point whether satisfaction of this requirement is not only necessary but also sufficient to ensure that a thing has a right to life. I am inclined to an affirmative answer. However, the issue is not urgent in the present context, since as long as the requirement is in fact a necessary one we have the basis of an adequate defense of abortion and infanticide. If an organism must satisfy some other condition before it has a serious right to life, the result

18. There are, however, situations other than those discussed here which might seem to count against the claim that a person cannot have a right unless he is conceptually capable of having the corresponding desire. Can't a young child, for example, have a right to an estate, even though he may not be conceptually capable of wanting the estate? It is clear that such situations have to be carefully considered if one is to arrive at a satisfactory account of the concept of a right. My inclination is to say that the correct description is not that the child now has a right to the estate, but that he will come to have such a right when he is mature, and that in the meantime no one else has a right to the estate. My reason for saying that the child does not now have a right to the estate is that he cannot now do things with the estate, such as selling it or giving it away, that he will be able to do later on.

will merely be that the interval during which infanticide is morally permissible may be somewhat longer. Although the point at which an organism first achieves self-consciousness and hence the capacity of desiring to continue existing as a subject of experiences and other mental states may be a theoretically incorrect cutoff point, it is at least a morally safe one: any error it involves is on the side of caution.

IV. SOME CRITICAL COMMENTS ON ALTERNATIVE PROPOSALS

I now want to compare the line of demarcation I am proposing with the cutoff points traditionally advanced in discussions of abortion. My fundamental claim will be that none of these cutoff points can be defended by appeal to plausible, basic moral principles. The main suggestions as to the point past which it is seriously wrong to destroy something that will develop into an adult member of the species *Homo sapiens* are these: (a) conception; (b) the attainment of human form; (c) the achievement of the ability to move about spontaneously; (d) viability; (e) birth.¹⁹ The corresponding moral principles suggested by these cutoff points are as follows: (1) It is seriously wrong to kill an organism, from a zygote on, that belongs to the species *Homo sapiens*. (2) It is seriously wrong to kill an organism that belongs to *Homo sapiens* and that has achieved human form. (3) It is seriously wrong to kill an organism that is a member of *Homo sapiens* and that is capable of spontaneous movement. (4) It is seriously wrong to kill an organism that belongs to *Homo sapiens* and that is capable of existing outside the womb. (5) It is seriously wrong to kill an organism that is a member of *Homo sapiens* that is no longer in the womb.

My first comment is that it would not do *simply* to omit the reference to membership in the species *Homo sapiens* from the above principles, with the exception of principle (2). For then the principles would be applicable to animals in general, and one would be forced to conclude that it was seriously wrong to abort a cat fetus, or that it was seriously wrong to abort a motile cat fetus, and so on.

The second and crucial comment is that none of the five principles

19. Another frequent suggestion as to the cutoff point not listed here is quickening. I omit it because it seems clear that if abortion after quickening is wrong, its wrongness must be tied up with the motility of the fetus, not with the mother's awareness of the fetus' ability to move about.

given above can plausibly be viewed as a *basic* moral principle. To accept any of them as such would be akin to accepting as a basic moral principle the proposition that it is morally permissible to enslave black members of the species *Homo sapiens* but not white members. Why should it be seriously wrong to kill an unborn member of the species *Homo sapiens* but not seriously wrong to kill an unborn kitten? Difference in species is not per se a morally relevant difference. If one holds that it is seriously wrong to kill an unborn member of the species *Homo sapiens* but not an unborn kitten, one should be prepared to point to some property that is morally significant and that is possessed by unborn members of *Homo sapiens* but not by unborn kittens. Similarly, such a property must be identified if one believes it seriously wrong to kill unborn members of *Homo sapiens* that have achieved viability but not seriously wrong to kill unborn kittens that have achieved that state.

What property might account for such a difference? That is to say, what *basic* moral principles might a person who accepts one of these five principles appeal to in support of his secondary moral judgment? Why should events such as the achievement of human form, or the achievement of the ability to move about, or the achievement of viability, or birth serve to endow something with a right to life? What the liberal must do is to show that these events involve changes, or are associated with changes, that are morally relevant.

Let us now consider reasons why the events involved in cutoff points (b) through (e) are not morally relevant, beginning with the last two: viability and birth. The fact that an organism is not physiologically dependent upon another organism, or is capable of such physiological independence, is surely irrelevant to whether the organism has a right to life. In defense of this contention, consider a speculative case where a fetus is able to learn a language while in the womb. One would surely not say that the fetus had no right to life until it emerged from the womb, or until it was capable of existing outside the womb. A less speculative example is the case of Siamese twins who have learned to speak. One doesn't want to say that since one of the twins would die were the two to be separated, it therefore has no right to life. Consequently it seems difficult to disagree with the conservative's claim that an organism which lacks a right to life be-

fore birth or before becoming viable cannot acquire this right immediately upon birth or upon becoming viable.

This does not, however, completely rule out viability as a line of demarcation. For instead of defending viability as a cutoff point on the ground that only then does a fetus acquire a right to life, it is possible to argue rather that when one organism is physiologically dependent upon another, the former's right to life may conflict with the latter's right to use its body as it will, and moreover, that the latter's right to do what it wants with its body may often take precedence over the other organism's right to life. Thomson has defended this view: "I am arguing only that having a right to life does not guarantee having either a right to the use of or a right to be allowed continued use of another person's body—even if one needs it for life itself. So the right to life will not serve the opponents of abortion in the very simple and clear way in which they seem to have thought it would."²⁰ I believe that Thomson is right in contending that philosophers have been altogether too casual in assuming that if one grants the fetus a serious right to life, one must accept a conservative position on abortion.²¹ I also think the only defense of viability as a cutoff point which has any hope of success at all is one based on the considerations she advances. I doubt very much, however, that this defense of abortion is ultimately tenable. I think that one can grant even stronger assumptions than those made by Thomson and still argue persuasively for a semiconservative view. What I have in mind is this. Let it be granted, for the sake of argument, that a woman's right to free her body of parasites which will inhibit her freedom of action and possibly impair her health is stronger than the parasite's right to life, and is so even if the parasite has as much right to life as an adult human. One can still argue that abortion ought not to be permitted. For if A's right is stronger than B's, and it is impossible to satisfy both, it does not follow that A's should be satisfied rather than B's. It may be possible to compensate A if his right isn't satisfied, but impossible to compensate B if his right isn't satisfied. In such a case the best thing

20. Thomson, "A Defense of Abortion," p. 56.

21. A good example of a failure to probe this issue is provided by Brody's "Abortion and the Law."

to do may be to satisfy B's claim and to compensate A. Abortion may be a case in point. If the fetus has a right to life and the right is not satisfied, there is certainly no way the fetus can be compensated. On the other hand, if the woman's right to rid her body of harmful and annoying parasites is not satisfied, she can be compensated. Thus it would seem that the just thing to do would be to prohibit abortion, but to compensate women for the burden of carrying a parasite to term. Then, however, we are back at a (modified) conservative position.²² Our conclusion must be that it appears unlikely there is any satisfactory defense either of viability or of birth as cutoff points.

Let us now consider the third suggested line of demarcation, the achievement of the power to move about spontaneously. It might be argued that acquiring this power is a morally relevant event on the grounds that there is a connection between the concept of an agent and the concept of a person, and being motile is an indication that a thing is an agent.²³

It is difficult to respond to this suggestion unless it is made more specific. Given that one's interest here is in defending a certain cutoff point, it is natural to interpret the proposal as suggesting that motility is a necessary condition of an organism's having a right to life. But this won't do, because one certainly wants to ascribe a right to life to adult humans who are completely paralyzed. Maybe the suggestion is rather that motility is a sufficient condition of something's having a right to life. However, it is clear that motility alone is not sufficient, since this would imply that all animals, and also certain machines, have a right to life. Perhaps, then, the most reasonable interpretation of the claim is that motility together with some other property is a sufficient condition of something's having a right to life, where the other property will have to be a property possessed by unborn members of the species *Homo sapiens* but not by unborn members of other familiar species.

The central question, then, is what this other property is. Until one

22. Admittedly the modification is a substantial one, since given a society that refused to compensate women, a woman who had an abortion would not be doing anything wrong.

23. Compare Wertheimer's remarks, "Understanding the Abortion Argument," p. 79.

is told, it is very difficult to evaluate either the moral claim that motility together with that property is a sufficient basis for ascribing to an organism a right to life or the factual claim that a motile human fetus possesses that property while a motile fetus belonging to some other species does not. A conservative would presumably reject motility as a cutoff point by arguing that whether an organism has a right to life depends only upon its potentialities, which are of course not changed by its becoming motile. If, on the other hand, one favors a liberal view of abortion, I think that one can attack this third suggested cutoff point, in its unspecified form, only by determining what properties are necessary, or what properties sufficient, for an individual to have a right to life. Thus I would base my rejection of motility as a cutoff point on my claim, defended above, that a necessary condition of an organism's possessing a right to life is that it conceive of itself as a continuing subject of experiences and other mental states.

The second suggested cutoff point—the development of a recognizably human form—can be dismissed fairly quickly. I have already remarked that membership in a particular species is not itself a morally relevant property. For it is obvious that if we encountered other “rational animals,” such as Martians, the fact that their physiological makeup was very different from our own would not be grounds for denying them a right to life.²⁴ Similarly, it is clear that the development of human form is not in itself a morally relevant event. Nor do there seem to be any grounds for holding that there is some other change, associated with this event, that is morally relevant. The appeal of this second cutoff point is, I think, purely emotional.

The overall conclusion seems to be that it is very difficult to defend the cutoff points traditionally advanced by those who advocate either a moderate or a liberal position on abortion. The reason is that there do not seem to be any basic moral principles one can appeal to in support of the cutoff points in question. We must now consider whether the conservative is any better off.

24. This requires qualification. If their central nervous systems were radically different from ours, it might be thought that one would not be justified in ascribing to them mental states of an experiential sort. And then, since it seems to be a conceptual truth that only things having experiential states can have rights, one would be forced to conclude that one was not justified in ascribing any rights to them.

V. REFUTATION OF THE CONSERVATIVE POSITION

Many have felt that the conservative's position is more defensible than the liberal's because the conservative can point to the gradual and continuous development of an organism as it changes from a zygote to an adult human being. He is then in a position to argue that it is morally arbitrary for the liberal to draw a line at some point in this continuous process and to say that abortion is permissible before, but not after, that particular point. The liberal's reply would presumably be that the emphasis upon the continuity of the process is misleading. What the conservative is really doing is simply challenging the liberal to specify the properties a thing must have in order to be a person, and to show that the developing organism does acquire the properties at the point selected by the liberal. The liberal may then reply that the difficulty he has meeting this challenge should not be taken as grounds for rejecting his position. For the conservative cannot meet this challenge either; the conservative is equally unable to say what properties something must have if it is to have a right to life.

Although this rejoinder does not dispose of the conservative's argument, it is not without bite. For defenders of the view that abortion is always wrong have failed to face up to the question of the basic moral principles on which their position rests. They have been content to assert the wrongness of killing any organism, from a zygote on, if that organism is a member of the species *Homo sapiens*. But they have overlooked the point that this cannot be an acceptable *basic* moral principle, since difference in species is not in itself a morally relevant difference. The conservative can reply, however, that it is possible to defend his position—but not the liberal's—*without* getting clear about the properties a thing must possess if it is to have a right to life. The conservative's defense will rest upon the following two claims: first, that there is a property, even if one is unable to specify what it is, that (i) is possessed by adult humans, and (ii) endows any organism possessing it with a serious right to life. Second, that if there are properties which satisfy (i) and (ii) above, at least one of those properties will be such that any organism potentially possessing that property has a serious right to life even now, simply by virtue of that potentiality, where an organism possesses a property potentially if

it will come to have that property in the normal course of its development. The second claim—which I shall refer to as the potentiality principle—is critical to the conservative’s defense. Because of it he is able to defend his position without deciding what properties a thing must possess in order to have a right to life. It is enough to know that adult members of *Homo sapiens* do have such a right. For then one can conclude that any organism which belongs to the species *Homo sapiens*, from a zygote on, must also have a right to life by virtue of the potentiality principle.

The liberal, by contrast, cannot mount a comparable argument. He cannot defend his position without offering at least a partial answer to the question of what properties a thing must possess in order to have a right to life.

The importance of the potentiality principle, however, goes beyond the fact that it provides support for the conservative’s position. If the principle is unacceptable, then so is his position. For if the conservative cannot defend the view that an organism’s having certain potentialities is sufficient grounds for ascribing to it a right to life, his claim that a fetus which is a member of *Homo sapiens* has a right to life can be attacked as follows. The reason an adult member of *Homo sapiens* has a right to life, but an infant ape does not, is that there are certain psychological properties which the former possesses and the latter lacks. Now, even if one is unsure exactly what these psychological properties are, it is clear that an organism in the early stages of development from a zygote into an adult member of *Homo sapiens* does not possess these properties. One need merely compare a human fetus with an ape fetus. What mental states does the former enjoy that the latter does not? Surely it is reasonable to hold that there are no significant differences in their respective mental lives—assuming that one wishes to ascribe any mental states at all to such organisms. (Does a zygote have a mental life? Does it have experiences? Or beliefs? Or desires?) There are, of course, physiological differences, but these are not in themselves morally significant. *If* one held that potentialities were relevant to the ascription of a right to life, one could argue that the physiological differences, though not morally significant in themselves, are morally significant by virtue of their causal consequences: they will lead to later psychological differences that are

morally relevant, and for this reason the physiological differences are themselves morally significant. But if the potentiality principle is not available, this line of argument cannot be used, and there will then be no differences between a human fetus and an ape fetus that the conservative can use as grounds for ascribing a serious right to life to the former but not to the latter.

It is therefore tempting to conclude that the conservative view of abortion is acceptable if and only if the potentiality principle is acceptable. But to say that the conservative position can be defended if the potentiality principle is acceptable is to assume that the argument is over once it is granted that the fetus has a right to life, and, as was noted above, Thomson has shown that there are serious grounds for questioning this assumption. In any case, the important point here is that the conservative position on abortion is acceptable *only if* the potentiality principle is sound.

One way to attack the potentiality principle is simply to argue in support of the self-consciousness requirement—the claim that only an organism that conceives of itself as a continuing subject of experiences has a right to life. For this requirement, when taken together with the claim that there is at least one property, possessed by adult humans, such that any organism possessing it has a serious right to life, entails the denial of the potentiality principle. Or at least this is so if we add the uncontroversial empirical claim that an organism that will in the normal course of events develop into an adult human does not from the very beginning of its existence possess a concept of a continuing subject of experiences together with a belief that it is itself such an entity.

I think it best, however, to scrutinize the potentiality principle itself, and not to base one's case against it simply on the self-consciousness requirement. Perhaps the first point to note is that the potentiality principle should not be confused with principles such as the following: the value of an object is related to the value of the things into which it can develop. This "valuation principle" is rather vague. There are ways of making it more precise, but we need not consider these here. Suppose now that one were to speak not of a right to life, but of the value of life. It would then be easy to make the mistake of thinking that the valuation principle was relevant to the potentiality

principle—indeed, that it entailed it. But an individual's right to life is not based on the value of his life. To say that the world would be better off if it contained fewer people is not to say that it would be right to achieve such a better world by killing some of the present inhabitants. *If* having a right to life were a matter of a thing's value, then a thing's potentialities, being connected with its expected value, would clearly be relevant to the question of what rights it had. Conversely, once one realizes that a thing's rights are not a matter of its value, I think it becomes clear that an organism's potentialities are irrelevant to the question of whether it has a right to life.

But let us now turn to the task of finding a direct refutation of the potentiality principle. The basic issue is this. Is there any property J which satisfies the following conditions: (1) There is a property K such that any individual possessing property K has a right to life, and there is a scientific law L to the effect that any organism possessing property J will in the normal course of events come to possess property K at some later time. (2) Given the relationship between property J and property K just described, anything possessing property J has a right to life. (3) If property J were not related to property K in the way indicated, it would not be the case that anything possessing property J thereby had a right to life. In short, the question is whether there is a property J that bestows a right to life on an organism *only because* J stands in a certain causal relationship to a second property K, which is such that anything possessing that property ipso facto has a right to life.

My argument turns upon the following critical principle: Let C be a causal process that normally leads to outcome E. Let A be an action that initiates process C, and B be an action involving a minimal expenditure of energy that stops process C before outcome E occurs. Assume further that actions A and B do not have any other consequences, and that E is the only morally significant outcome of process C. Then there is no moral difference between intentionally performing action B and intentionally refraining from performing action A, assuming identical motivation in both cases. This principle, which I shall refer to as the moral symmetry principle with respect to action and inaction, would be rejected by some philosophers. They would argue that there is an important distinction to be drawn between

“what we owe people in the form of aid and what we owe them in the way of non-interference,”²⁵ and that the latter, “negative duties,” are duties that it is more serious to neglect than the former, “positive” ones. This view arises from an intuitive response to examples such as the following. Even if it is wrong not to send food to starving people in other parts of the world, it is more wrong still to kill someone. And isn’t the conclusion, then, that one’s obligation to refrain from killing someone is a more serious obligation than one’s obligation to save lives?

I want to argue that this is not the correct conclusion. I think it is tempting to draw this conclusion if one fails to consider the motivation that is likely to be associated with the respective actions. If someone performs an action he knows will kill someone else, this will usually be grounds for concluding that he wanted to kill the person in question. In contrast, failing to help someone may indicate only apathy, laziness, selfishness, or an amoral outlook: the fact that a person knowingly allows another to die will not normally be grounds for concluding that he desired that person’s death. Someone who knowingly kills another is more likely to be seriously defective from a moral point of view than someone who fails to save another’s life.

If we are not to be led to false conclusions by our intuitions about certain cases, we must explicitly assume identical motivations in the two situations. Compare, for example, the following: (1) Jones sees that Smith will be killed by a bomb unless he warns him. Jones’s reaction is: “How lucky, it will save me the trouble of killing Smith myself.” So Jones allows Smith to be killed by the bomb, even though he could easily have warned him. (2) Jones wants Smith dead, and therefore shoots him. Is one to say there is a significant difference between the wrongness of Jones’s behavior in these two cases? Surely not. This shows the mistake of drawing a distinction between positive duties and negative duties and holding that the latter impose stricter obligations than the former. The difference in our intuitions about situations that involve giving aid to others and corresponding situations that involve not interfering with others is to be explained by reference to probable differences in the motivations operating in the

25. Philippa Foot, “The Problem of Abortion and the Doctrine of the Double Effect,” *The Oxford Review* 5 (1967): 5-15. See the discussion on pp. 11ff.

two situations, and not by reference to a distinction between positive and negative duties. For once it is specified that the motivation is the same in the two situations, we realize that inaction is as wrong in the one case as action is in the other.

There is another point that may be relevant. Action involves effort, while inaction usually does not. It usually does not require any effort on my part to refrain from killing someone, but saving someone's life will require an expenditure of energy. One must then ask how large a sacrifice a person is morally required to make to save the life of another. If the sacrifice of time and energy is quite large it may be that one is not morally obliged to save the life of another in that situation. Superficial reflection upon such cases might easily lead us to introduce the distinction between positive and negative duties, but again it is clear that this would be a mistake. The point is not that one has a greater duty to refrain from killing others than to perform positive actions that will save them. It is rather that positive actions require effort, and this means that in deciding what to do a person has to take into account his own right to do what he wants with his life, and not only the other person's right to life. To avoid this confusion, we should confine ourselves to comparisons between situations in which the positive action involves minimal effort.

The moral symmetry principle, as formulated above, explicitly takes these two factors into account. It applies only to pairs of situations in which the motivations are identical and the positive action involves minimal effort. Without these restrictions, the principle would be open to serious objection; with them, it seems perfectly acceptable. For the central objection to it rests on the claim that we must distinguish positive from negative duties and recognize that negative duties impose stronger obligations than positive ones. I have tried to show how this claim derives from an unsound account of our moral intuitions about certain situations.

My argument against the potentiality principle can now be stated. Suppose at some future time a chemical were to be discovered which when injected into the brain of a kitten would cause the kitten to develop into a cat possessing a brain of the sort possessed by humans, and consequently into a cat having all the psychological capabilities characteristic of adult humans. Such cats would be able to think, to use lan-

guage, and so on. Now it would surely be morally indefensible in such a situation to ascribe a serious right to life to members of the species *Homo sapiens* without also ascribing it to cats that have undergone such a process of development: there would be no morally significant differences.

Secondly, it would not be seriously wrong to refrain from injecting a newborn kitten with the special chemical, and to kill it instead. The fact that one could initiate a causal process that would transform a kitten into an entity that would eventually possess properties such that anything possessing them *ipso facto* has a serious right to life does not mean that the kitten has a serious right to life even before it has been subjected to the process of injection and transformation. The possibility of transforming kittens into persons will not make it any more wrong to kill newborn kittens than it is now.

Thirdly, in view of the symmetry principle, if it is not seriously wrong to refrain from initiating such a causal process, neither is it seriously wrong to interfere with such a process. Suppose a kitten is accidentally injected with the chemical. As long as it has not yet developed those properties that in themselves endow something with a right to life, there cannot be anything wrong with interfering with the causal process and preventing the development of the properties in question. Such interference might be accomplished either by injecting the kitten with some "neutralizing" chemical or simply by killing it.

But if it is not seriously wrong to destroy an injected kitten which will naturally develop the properties that bestow a right to life, neither can it be seriously wrong to destroy a member of *Homo sapiens* which lacks such properties, but will naturally come to have them. The potentialities are the same in both cases. The only difference is that in the case of a human fetus the potentialities have been present from the beginning of the organism's development, while in the case of the kitten they have been present only from the time it was injected with the special chemical. This difference in the time at which the potentialities were acquired is a morally irrelevant difference.

It should be emphasized that I am not here assuming that a human fetus does not possess properties which in themselves, and irrespective of their causal relationships to other properties, provide grounds for

ascribing a right to life to whatever possesses them. The point is merely that if it is seriously wrong to kill something, the reason cannot be that the thing will later acquire properties that in themselves provide something with a right to life.

Finally, it is reasonable to believe that there are properties possessed by adult members of *Homo sapiens* which establish their right to life, and also that any normal human fetus will come to possess those properties shared by adult humans. But it has just been shown that if it is wrong to kill a human fetus, it cannot be because of its potentialities. One is therefore forced to conclude that the conservative's potentiality principle is false.

In short, anyone who wants to defend the potentiality principle must either argue against the moral symmetry principle or hold that in a world in which kittens could be transformed into "rational animals" it would be seriously wrong to kill newborn kittens. It is hard to believe there is much to be said for the latter moral claim. Consequently one expects the conservative's rejoinder to be directed against the symmetry principle. While I have not attempted to provide a thorough defense of that principle, I have tried to show that what seems to be the most important objection to it—the one that appeals to a distinction between positive and negative duties—is based on a superficial analysis of our moral intuitions. I believe that a more thorough examination of the symmetry principle would show it to be sound. If so, we should reject the potentiality principle, and the conservative position on abortion as well.

VI. SUMMARY AND CONCLUSIONS

Let us return now to my basic claim, the self-consciousness requirement: 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. My defense of this claim has been twofold. I have offered a direct argument in support of it, and I have tried to show that traditional conservative and liberal views on abortion and infanticide, which involve a rejection of it, are unsound. I now want to mention one final reason why my claim should be accepted. Consider the example mentioned in section II—that of killing, as opposed to torturing, newborn

kittens. I suggested there that while in the case of adult humans most people would consider it worse to kill an individual than to torture him for an hour, we do not usually view the killing of a newborn kitten as morally outrageous, although we would regard someone who tortured a newborn kitten for an hour as heinously evil. I pointed out that a possible conclusion that might be drawn from this is that newborn kittens have a right not to be tortured, but do not have a serious right to life. If this is the correct conclusion, how is one to explain it? One merit of the self-consciousness requirement is that it provides an explanation of this situation. The reason a newborn kitten does not have a right to life is explained by the fact that it does not possess the concept of a self. But how is one to explain the kitten's having a right not to be tortured? The answer is that a desire not to suffer pain can be ascribed to something without assuming that it has any concept of a continuing self. For while something that lacks the concept of a self cannot desire that a self not suffer, it can desire that a given sensation not exist. The state desired—the absence of a particular sensation, or of sensations of a certain sort—can be described in a purely phenomenalist language, and hence without the concept of a continuing self. So long as the newborn kitten possesses the relevant phenomenal concepts, it can truly be said to desire that a certain sensation not exist. So we can ascribe to it a right not to be tortured even though, since it lacks the concept of a continuing self, we cannot ascribe to it a right to life.

This completes my discussion of the basic moral principles involved in the issue of abortion and infanticide. But I want to comment upon an important factual question, namely, at what point an organism comes to possess the concept of a self as a continuing subject of experiences and other mental states, together with the belief that it is itself such a continuing entity. This is obviously a matter for detailed psychological investigation, but everyday observation makes it perfectly clear, I believe, that a newborn baby does not possess the concept of a continuing self, any more than a newborn kitten possesses such a concept. If so, infanticide during a time interval shortly after birth must be morally acceptable.

But where is the line to be drawn? What is the cutoff point? If one maintained, as some philosophers have, that an individual possesses

concepts only if he can express these concepts in language, it would be a matter of everyday observation whether or not a given organism possessed the concept of a continuing self. Infanticide would then be permissible up to the time an organism learned how to use certain expressions. However, I think the claim that acquisition of concepts is dependent on acquisition of language is mistaken. For example, one wants to ascribe mental states of a conceptual sort—such as beliefs and desires—to organisms that are incapable of learning a language. This issue of prelinguistic understanding is clearly outside the scope of this discussion. My point is simply that *if* an organism can acquire concepts without thereby acquiring a way of expressing those concepts linguistically, the question of whether a given organism possesses the concept of a self as a continuing subject of experiences and other mental states, together with the belief that it is itself such a continuing entity, may be a question that requires fairly subtle experimental techniques to answer.

If this view of the matter is roughly correct, there are two worries one is left with at the level of practical moral decisions, one of which may turn out to be deeply disturbing. The lesser worry is where the line is to be drawn in the case of infanticide. It is not troubling because there is no serious need to know the exact point at which a human infant acquires a right to life. For in the vast majority of cases in which infanticide is desirable, its desirability will be apparent within a short time after birth. Since it is virtually certain that an infant at such a stage of its development does not possess the concept of a continuing self, and thus does not possess a serious right to life, there is excellent reason to believe that infanticide is morally permissible in most cases where it is otherwise desirable. The practical moral problem can thus be satisfactorily handled by choosing some period of time, such as a week after birth, as the interval during which infanticide will be permitted. This interval could then be modified once psychologists have established the point at which a human organism comes to believe that it is a continuing subject of experiences and other mental states.

The troubling worry is whether adult animals belonging to species other than *Homo sapiens* may not also possess a serious right to life. For once one says that an organism can possess the concept of a con-

tinuing self, together with the belief that it is itself such an entity, without having any way of expressing that concept and that belief linguistically, one has to face up to the question of whether animals may not possess properties that bestow a serious right to life upon them. The suggestion itself is a familiar one, and one that most of us are accustomed to dismiss very casually. The line of thought advanced here suggests that this attitude may turn out to be tragically mistaken. Once one reflects upon the question of the *basic* moral principles involved in the ascription of a right to life to organisms, one may find himself driven to conclude that our everyday treatment of animals is morally indefensible, and that we are in fact murdering innocent persons.