

## Personal Bodily Rights, Abortion, and Unplugging the Violinist

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**T**HOSE WHO argue against abortion-rights (or *prolife* advocates) often try to show that the unborn entity during some period of its development is fully human (or “a person”), and hence, elective abortion, which entails the death of this unborn entity, is a serious moral wrong.<sup>1</sup> Some defenders of abortion-rights (or *prochoice* advocates), however, do not see the status of the unborn as the decisive factor in whether or not abortion is morally justified. They argue that the unborn’s presence in the pregnant woman’s body entails a conflict of rights. Therefore, the unborn, regardless of whether or not it is fully human and has a full right to life, cannot use the body of another against her will. Hence, a pregnant woman’s removal of an unborn entity from her body, even though it will probably result in its death, is no more immoral than an ordinary person’s refusal to donate his kidney to another in need of one, even though this refusal will probably result in the death of the prospective recipient.

The most famous and influential argument from rights is the one presented by Judith Jarvis Thomson. Prior to analyzing that argument, however, I want to respond to two popular arguments which are much less sophisticated than Professor Thomson’s, although they carry much rhetorical weight in the popular debate. These arguments, unlike Thomson’s, do not assume for the sake of argument that the unborn is fully human, but merely ignore altogether the question of the unborn’s full humanness.

### I. ARGUMENT FOR A WOMAN’S RIGHT OVER HER OWN BODY

This argument asserts that because a woman has a right to control her own body, she therefore has a right to undergo an abortion for any reason she deems fit. Although it is not obvious that either the law or sound ethical reasoning supports such a strong view of personal autonomy (e.g., laws against prostitution and suicide), this abortion-rights argument still logically fails even if we assume that such a strong view of personal autonomy is correct.

First, the unborn entity within the pregnant woman’s body is not *part* of her body. The conceptus is a genetically distinct entity with its own individual gender,

<sup>1</sup>For example, see Baruch Brody, *Abortion and the Sanctity of Human Life: A Philosophical View* (Cambridge, MA: MIT Press, 1975); Peter Kreeft, “Human Personhood Begins at Conception,” *Journal of Biblical Ethics in Medicine* 4 (1990), 8–11; Don Marquis, “Why Abortion is Immoral,” *Journal of Philosophy* 86 (1989), 183–202; A. Chadwick Ray, “Humanity, Personhood, and Abortion,” *International Philosophical Quarterly* 25 (1985), 233–45; and Andrew Varga, *The Main Issues in Bioethics*, rev. ed. (New York: Paulist Press, 1984), pp. 59–65.

blood type, bone-structure and genetic code. Although the unborn entity is *attached* to her mother, it is not part of her mother. To say that the unborn entity is part of her mother is to claim that the mother possesses four legs, two heads, two noses, and with the case of a male conceptus, a penis and two testicles. Furthermore, since scientists have been able to achieve conception in a petri dish in the case of the "test-tube" baby, and this conceptus if it has white parents can be transferred to the body of a black woman and be born white, we know conclusively that the unborn is not part of the pregnant woman's body. Certainly a woman has a right to control her own body, but the unborn entity is not *part* of her body. Hence, abortion is not justified since no one's right to personal autonomy is so strong that it permits the arbitrary execution of others.

Second, this abortion-rights argument is guilty of special pleading. The concept of a personal right over one's own body presupposes the existence of a human person who possesses such a right. Such a right also presupposes that this right to personal autonomy should not interfere with another person's identical right. This is why smoking is being prohibited in more and more public places. Many studies have shown conclusively that a smoker's habit not only affects his own lungs, but also the lungs of others who choose not to smoke. The smoker's "secondary smoke" can cause the non-smoker to be ill and quite possibly acquire lung cancer if he is exposed to such smoke over a long period of time. Since the non-smoker has a personal right over his own body, and he chooses not to fill it with nicotine, the smoker's personal right to smoke and fill his own body with nicotine is limited by the non-smoker's personal right to remain healthy. This is because in the process of smoking the smoker passes on harmful secondary smoke to the unwilling non-smoker.

Suppose a smoker, in arguing against a prohibition of smoking in public places, continually appeals to his "personal right" to control his own body. And suppose he dismisses out of hand any counter-argument which appeals to the possible existence of other persons (non-smokers) whose rights his actions may obstruct. This sort of argumentation would be a case of *special pleading*, a fallacy which occurs when someone selects pieces of evidence which confirm his position (in this case, the smoker's legitimate right to personal autonomy) and ignores counter-examples which conflict with it (in this case, the non-smoker's legitimate right to personal autonomy). Therefore, in terms of the abortion issue, when the abortion-rights advocate appeals to a woman's right to control her own body while ignoring the possibility that this control may entail the death of another, he is guilty of selecting principles that support his position (i.e., every person has a right to personal autonomy) while ignoring principles which conflict with it (i.e., every person has an obligation not to kill another). Thus the abortion-rights advocate is guilty of special pleading.

Of course, if the unborn entity is not fully human, I believe that this abortion-rights argument has compelling force. But this means that one begs the question when one uses this argument without first demonstrating that the unborn entity is not fully human. Professor Baruch Brody adds to this observation that although "it is surely true that one way in which women have been oppressed is by their being denied authority over their own bodies . . . , it seems to be that, as the struggle is carried on for meaningful amelioration of such oppression, it ought not to be carried so far that it violates the steady responsibilities all people have to

one another.” To cite a number of examples, “parents may not desert their children, one class may not oppress another, one race or nation may not exploit another. For parents, powerful groups in society, races or nations in ascendancy, there are penalties [i.e., hardships] for refraining from these wrong actions, but those penalties can in no way be taken as the justification for such wrong actions. Similarly, if the fetus is a human being, the penalty of carrying it cannot, I believe, be used as justification for destroying it.”<sup>2</sup>

## II. ARGUMENT FROM ABORTION BEING SAFER THAN CHILDBIRTH

This argument attempts to show that the pregnant woman has no moral obligation to carry her unborn offspring to term, regardless of whether or not it is fully human. The abortion-rights advocate argues that childbirth is an act which is not morally obligatory on the part of the pregnant woman, since an abortion is statistically less dangerous than childbirth. The statistic often quoted to support this argument is one found in the most recent edition of the *American Medical Association Encyclopedia of Medicine*: “Mortality is less than one per 100,000 when abortion is performed before the 13th week, rising to three per 100,000 after the 13th week. (For comparison, maternal mortality for full-term pregnancy is nine per 100,000.)”<sup>3</sup>

This argument can be outlined in the following way.

- 1) Among moral acts one is not morally obligated to perform are those which can endanger one’s life (e.g., the man who dove into the Potomac in the middle of winter to save the survivors of a plane crash).
- 2) Childbirth is more life-threatening than having an abortion.
- 3) Therefore, childbirth is an act one is not morally obligated to perform.
- 4) Therefore, abortion is justified.

The problem with this argument lies in the inference from (2) to (3). First, assuming that childbirth is on the average more life-threatening than abortion, it does not follow that abortion is justified in every case. The fact that one act, A, is more life-threatening on the average than another act, B, does not mean that one is not justified or obligated to perform A in *specific* situations where there is no *prima facie* reason to believe that A would result in death or severe physical impairment unless one resorts to B. To use an uncontroversial example, it is probably on the average less life-threatening to stay at home than to leave home and buy groceries (e.g., one can be killed in a car crash, purchase and take tainted Tylenol, or be murdered by a mugger), yet it seems foolish, not to mention counter-intuitive, always to act in every instance on the basis of that average. This is a form of the informal fallacy of division, which occurs when someone erroneously argues that what is true of a whole (the average) must also be true of its parts (every individual situation). One would commit this fallacy if one argued that because Beverly Hills is a wealthier city than Barstow every individual

<sup>2</sup>Brody, p. 30.

<sup>3</sup>*American Medical Association Encyclopedia of Medicine*, ed. Charles B. Clayman, M.D. (New York: Random House, 1989), p. 58.

person who lives in Beverly Hills is wealthier than every individual person who lives in Barstow.

Second, one can also imagine a situation in which one is obligated to perform a particular *moral* action although there is statistically more risk in performing it than abstaining from it. That is to say, one can challenge the inference from (2) to (3) by pointing out that just because an act, X, is “more dangerous” *relative* to another act, Y, does not mean that one is *not* morally obligated to perform X. For example, it would be statistically “more dangerous” for me (a swimmer) to dive into a swimming pool to save my wife (a non-swimmer) from drowning than it would be for me to abstain from acting. Yet this does not mean that I am not morally obligated to save my wife’s life. Sometimes my moral obligation is such that it *outweighs* the *relative* danger I avoid by not acting. One could then argue that although childbirth may be “more dangerous” than abortion, the special moral obligation one has to one’s offspring far outweighs the relative danger one avoids by not acting on that moral obligation.

Of course, if a *specific* act, X, is *significantly* dangerous (i.e., there is a good chance that one will die or be severely harmed if one acts)—such as the act performed by that one man who dove into the freezing Potomac River in the dead of winter to save the survivors of an airplane crash—then it would seem that an individual would not be obligated to perform X. But if one had chosen to perform X, one would be performing an act of exceptional morality (what ethicists call “a supererogatory act”), although if one had refrained from X one would not be considered a bad or evil person. In light of the above observations, the abortion-rights argument in question can be strengthened if changed in the following way:

- 1) Among moral acts one is not morally obligated to *perform* are those which can endanger one’s life.
- 2) A particular instance of childbirth, X, is more life-threatening to the pregnant woman than having an abortion.
- 3) Therefore, X is an act one is not morally obligated to perform.
- 4) Therefore, not-X via abortion is justified.

Although avoiding the pitfalls of the first argument, this one *does not* support the abortion-rights position. For it is perfectly consistent with the prolife assertion that abortion is justified if it is employed in order to save the life of the mother. Therefore, whether or not abortion is statistically safer than childbirth is irrelevant to whether or not abortion is justified in particular cases where sound medical diagnosis indicates that childbirth will pose no threat to the mother’s life.

One other observation can be made about the argument from abortion being safer than childbirth. The AMA statistics are misused and do not really establish the abortion-rights position. The above statistics claim that the mortality rate for a woman in childbirth is 9 per 100,000 while mortality is less than 1 per 100,000 when abortion is performed before the 13th week, increasing to 3 per 100,000 after the 13th week. This is why abortion-rights advocates often claim that a first trimester abortion is nine times safer than childbirth. Although technically true if one assumes that the statistics are accurate, it is statistically insignificant. This becomes apparent when one converts the above “odds” into percentages. If the mortality of childbirth is 9 per 100,000, then a woman has a 99.991% chance of

surviving. If the mortality of a first trimester abortion is 1 per 100,000, then a woman has a 99.999% chance of surviving. But the statistical difference between 99.991% and 99.999% (00.008%) is moot, especially if one considers the complex nature of both childbirth and abortion, about which there are so many variables which may account for the small difference in the mortality rates.<sup>4</sup>

Considering that the supposed "fact" that childbirth is riskier than abortion played a substantial role in the U.S. Supreme Court opinions which made abortion legal, *Roe v. Wade* (410 U.S. 113 [1973]) and *Doe v. Bolton* (410 U.S. 179 [1973]),<sup>5</sup> the exposing of the logical flaws of this claim helps to undermine the foundation of the Court's opinions.

## II. ARGUMENT FROM UNPLUGGING THE VIOLINIST

In an article, which by 1986 was "the most widely reprinted essay in all of contemporary philosophy,"<sup>6</sup> Professor Judith Jarvis Thomson presents a philosophically sophisticated version of the argument from a woman's right to control her body.<sup>7</sup> Thomson argues that even if the unborn entity has a right to life, this does not mean that a woman must be forced to use her bodily organs to sustain its life. Just as one does not have a right to use another's kidney if one's kidney has failed, the unborn entity, although having a basic right to life, does not have a right to life so strong that it outweighs the pregnant woman's right to personal bodily autonomy.

"It is questionable whether the statistics are well-founded. David C. Reardon points out that claims that abortion is safer than childbirth are based on dubious statistical studies, simply because "accurate statistics are scarce because the reporting of complications is almost entirely at the option of abortion providers. . . . [A]bortionists are in the privileged position of being able to hide any information which might damage their reputation or trade." And since "federal court rulings have sheltered the practice of abortion in a 'zone of privacy,'" therefore "any laws which attempt to require that deaths and complications resulting from abortion are recorded, much less reported, are unconstitutional." This means that the "only information available on abortion complications is the result of data which is voluntarily reported." Reardon concludes that "complication records from outpatient clinics are virtually inaccessible, or non-existent, even though these clinics provide the vast majority of all abortions. Even in Britain where reporting requirements are much better than the United States, medical experts believe that less than 10 percent of abortion complications are actually reported to government health agencies." (David C. Reardon, *Aborted Women: Silent No More* [Westchester, IL: Crossway Books, 1987], p. 90.)

Other reasons for underreporting could be: (1) Few outpatient clinics provide follow-up examinations; (2) there could be long-term complications which may develop (e.g., sterility, incompetent uterus) that cannot be detected without prolonged surveillance; (3) of the women who require emergency treatment after an outpatient abortion over 60 percent go to a local hospital rather than returning to the abortion clinic; and (4) some women who are receiving treatment for such long-term complications as infertility may either hide their abortion or not be cognizant of the fact that it is relevant (*ibid.*, p. 91).

<sup>4</sup>This argument was presented to the Court by some physicians: *Amicus curiae* brief filed on behalf of the American College of Obstetricians and Gynecologists, the American Medical Women's Association, the American Psychiatric Association, the New York Academy of Medicine, medical school deans and professors, and certain individual physicians, in *Doe v. Bolton*, 410 U.S. 179 (1973).

<sup>5</sup>According to her editor, William Parent, in Judith Jarvis Thomson, *Rights, Restitution, and Risk* (Cambridge, MA: Harvard Univ. Press, 1986), p. vii.

<sup>7</sup>Judith Jarvis Thomson, "A Defense of Abortion," in *The Problem of Abortion*, 2nd edn., ed. Joel Feinberg (Belmont, CA: Wadsworth, 1984), pp. 173-87. This article was originally published in *Philosophy and Public Affairs* 1 (1971), 47-66.

It should be noted that Thomson's argument was not used in any of the landmark Supreme Court decisions which have sided with the abortion-rights position, such as *Roe v. Wade* (1973) or *Doe v. Bolton* (1973). Recently, however, Harvard law professor Laurence Tribe, whose influence on the Court's liberal wing is well-known, has suggested that it should have used Thomson's argument. Tribe writes: "... [P]erhaps the Supreme Court's opinion in *Roe*, by gratuitously insisting that the fetus *cannot* be deemed a person, needlessly insulted and alienated those for whom the view that the fetus is a person represents a fundamental article of faith or a bedrock personal commitment. . . . The Court should have instead said: Even if the fetus *is* a person, our Constitution forbids compelling a woman to carry it for nine months and become a mother."<sup>8</sup>

### 1. Presentation of the Argument

This argument is called "the argument from unplugging the violinist" because of a story Thomson uses in order to illustrate her position:

You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, "Look we're sorry the Society of Music Lovers did this to you—we would never have permitted it if we had known. But still, they did it, and the violinist now is plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you." Is it morally incumbent on you to accede to this situation? No doubt it would be very nice of you if you did, a great kindness. But do you *have* to accede to it? What if it were not nine months, but nine years? Or still longer? What if the director of the hospital says, "Tough luck, I agree, but you've now got to stay in bed, with the violinist plugged into you, for the rest of your life. Because remember this. All persons have a right to life, and violinists are persons. Granted you have a right to decide what happens in and to your body, but a person's right to life outweighs your right to decide what happens in and to your body. So you cannot ever be unplugged from him." I imagine that you would regard this as outrageous. . . .<sup>9</sup>

Thomson concludes that by use of the violinist illustration she is "only arguing that having a right to life does not guarantee having either a right to be given the use of or a right to be allowed continued use of another person's body—even if one needs it for life itself."<sup>10</sup> Thomson anticipates several objections to her argument, and in the process of responding to them further clarifies it. It is not important, however, that we go over these clarifications now, for some are not

<sup>8</sup>Laurence Tribe, *Abortion: The Clash of Absolutes* (New York: W. W. Norton, 1990), p. 135.

<sup>9</sup>Thomson, "A Defense of Abortion," pp. 174–75.

<sup>10</sup>*Ibid.*, p. 180.

germane to the prolife position I am defending in this article,<sup>11</sup> and the remaining will be dealt with in the following critique.

Although I believe that it would be difficult to find an ethicist who would seriously defend the position that it is *not* prima facie wrong to kill innocent human beings, Thomson's argument poses a special difficulty because she believes that since pregnancy constitutes an infringement on the pregnant woman's personal rights by the unborn entity, the ordinary abortion, although it results in the death of an innocent human being, is not prima facie wrong. I believe, however, that there are many flaws in Thomson's use of the violinist analogy.

## 2. A Critique of Thomson's Argument

I believe that there are at least six problems with Thomson's argument. These can be put into two categories: ethical and ideological. First, under the ethical category, there are at least four problems with Thomson's argument:

1) *Thomson assumes volunteerism.* By using the violinist story as a paradigm for all relationships, which implies that moral obligations must be voluntarily accepted in order to have moral force, Thomson mistakenly infers that all true moral obligations to one's offspring are voluntary. But consider the following story. Suppose a couple has a sexual encounter which is fully protected by several forms of birth-control (condom, the Pill, IUD, etc.), but nevertheless results in conception. Instead of getting an abortion, the mother of the conceptus decides to bring it to term although the father is unaware of this decision. After the birth of the child the mother pleads with the father for child support. Because he refuses, she seeks legal action and takes him to court. Although he took every precaution to avoid fatherhood, thus showing that he did not wish to accept such a status, according to nearly all child support laws in this United States he would still be obligated to pay support *precisely because* of his relationship to this child.<sup>12</sup> As Michael Levin points out, "All child-support laws make the parental body an indirect resource for the child. If the father is a construction worker, the state will intervene unless some of his calories he expends lifting equipment go to providing food for his children."<sup>13</sup>

But this obligatory relationship is not based strictly on *biology*, for this would make sperm-donors morally responsible for children conceived by their seed. Rather, the father's responsibility for his offspring stems from the fact that he engaged in an act, sexual intercourse, which he fully realized could result in the creation of another human being, although he took every precaution to avoid such a result. This is not an unusual way to frame moral obligations, for we hold drunk people whose driving results in manslaughter responsible for their actions, even

<sup>11</sup>For example, in clarifying her own view, Thomson criticizes the absolutist position on abortion that it is morally impermissible to have an abortion even if the life of the mother is in significant danger. Needless to say, I agree with Thomson that this view is seriously flawed, and have spelled out my reasons for this in greater detail elsewhere: Francis J. Beckwith, "Abortion and Public Policy: A Response to Some Arguments," *Journal of the Evangelical Theological Society* 32 (1989), 503.

<sup>12</sup>See *In the Best Interest of the Child: A Guide to State Child Support and Paternity Laws*, ed. Carolyn Royce Kastner and Lawrence R. Young ([place of publication not given]: Child Support Enforcement Beneficial Laws Project, National Conference of State Legislatures, 1981).

<sup>13</sup>Michael Levin, review of *Life in the Balance* by Robert Wennberg, *Constitutional Commentary* 3 (1986), 511.

if they did not *intend* to kill someone prior to becoming intoxicated. Such special obligations, although not *directly* undertaken *voluntarily*, are necessary in any civilized culture in order to preserve the rights of the vulnerable, the weak, and the young, who can offer very little in exchange for the rights bestowed upon them by the strong, the powerful, and the post-uterine in Thomson's moral universe of the social contract. Thus, Thomson is simply wrong, in addition to ignoring the *natural* relationship between sexual intercourse and human reproduction<sup>14</sup> when she claims that if a couple has "taken all reasonable precautions against having a child, they do not by virtue of their biological relationship to the child who comes into existence have a special responsibility for it" since "surely we do not have any such 'special responsibility' for a person unless we have assumed it, explicitly or implicitly."<sup>15</sup> Hence, instead of providing reasons for rejecting any special responsibilities for one's offspring, Thomson simply dismisses the concept altogether.

2) *Thomson's argument is fatal to family morality.* It follows from the first criticism that Thomson's volunteerism is fatal to family morality, which has as one of its central beliefs that an individual has special personal obligations to his offspring and family which he does not have to other persons. Although Thomson may not consider such a fatality as being all that terrible, since she may buy into the feminist dogma that the traditional family is "oppressive" to women,<sup>16</sup> a great number of ordinary men and women, who have found joy, happiness, and love in family life, find Thomson's volunteerism to be counter-intuitive. Philosopher Christina Sommers has come to a similar conclusion:

For it [the volunteerist thesis] means that there is no such thing as filial [sic] duty per se, no such thing as the special duty of mother to child, and generally no such thing as morality of special family or kinship relations. All of which is contrary to what people think. For most people think that we do owe special debts to our parents even though we have not voluntarily assumed our obligations to them. Most people think that what we owe to our children does not have its origin in any voluntary undertaking, explicit or implicit, that we have made to them. And "preanalytically," many people believe that we owe special consideration to our siblings even at times when we may not *feel* very friendly to them. . . . The idea that to be committed to an individual is to have made a voluntarily implicit or explicit commitment to that individual is generally fatal to family morality. For it looks upon the network of felt obligation and expectation that binds

<sup>14</sup>The lengths to which Thomson will go in order to deny the *natural* relationship between sex, reproduction, and parental obligations is evident in her use of the following analogy: "If the room is stuffy, and I therefore open a window to air it, and a burglar climbs in, it would be absurd to say, 'Ah, now he can stay, she's given him a right to use her house—for she is partially responsible for his presence there, having voluntarily done what enabled him to get in, in full knowledge that there are such things as burglars, and that burglars burgle'" (Thomson, "A Defense of Abortion," p. 182). Since there is no *natural* dependency between burglar and homeowner, as there is between child and parent, Thomson's analogy is way off the mark. Burglars *don't belong* in other people's homes, whereas preborn children belong in *no other place except* their mother's womb.

<sup>15</sup>*Ibid.*, p. 186.

<sup>16</sup>For critiques of the feminist view of the family, see Christina Sommers, "Philosophers Against the Family," in *Vice and Virtue in Everyday Life: Readings in Ethics*, edd. Christina Sommers and Fred Sommers (San Diego, CA: Harcourt Brace Jovanovich, 1989), pp. 728–54; George Gilder, *Men and Marriage* (Gretna, LA: Pelican, 1986); Michael Levin, *Feminism and Freedom* (New Brunswick, NJ: Transaction Books, 1987); and Midge Decter, *The New Chastity and Other Arguments Against Women's Liberation* (New York: Coward, McCann, and Geoghegan, 1972).



family members as a sociological phenomenon that is without presumptive moral force. The social critics who hold this view of family obligation usually are aware that promoting it in public policy must further the disintegration of the traditional family as an institution. But whether they deplore the disintegration or welcome it, they are bound in principle to abet it.<sup>17</sup>

3) *A case can be made that the unborn does have a prima facie right to her mother's body.* Assuming that there is such a thing as a special parental obligation, which does *not* have to be voluntarily accepted in order to have moral weight, it is not obvious that the unborn entity in ordinary circumstances (that is, with the exception of when the mother's life is in significant danger) *does not* have a natural prima facie claim to her mother's body. There are several reasons to suppose that the unborn entity does have such a natural claim:

a) Unlike Thomson's violinist who is artificially attached to another person in order to save his life and is therefore not naturally dependent on any particular human being, the unborn entity is a human being who is by her very nature *dependent* on her mother, for this is how human beings are at this stage of their development.

b) This period of a human being's *natural* development occurs in the womb. This is the journey which *we all* must take and is a necessary condition for *any* human being's post-uterine existence. And this fact alone brings out the most glaring disanalogy between the violinist and the unborn: the womb is the unborn's natural environment whereas being artificially hooked-up to a stranger is not the natural environment for the violinist. It would seem, then, that the unborn has a prima facie natural claim upon its mother's body. This brings us to my third point.

c) This same entity, when it becomes a newborn, has a natural claim upon her parents to care for her, regardless of whether her parents "wanted" her (see the above story of the irresponsible father). This is why we prosecute child-abusers, people who throw their babies in trash cans, and parents who abandon their children. Although it should not be ignored that pregnancy and childbirth entail certain emotional, physical, and financial sacrifices on the part of the pregnant woman, these sacrifices are also endemic of *parenthood* in general (which ordinarily lasts much longer than nine months), and do not seem to justify the execution of troublesome infants and younger children whose existence entails a natural claim to certain financial and bodily goods which are under the ownership of their parents.

d) If the unborn entity is fully human, as Thomson is willing to grant, why should the unborn's natural prima facie claim to her parents' goods differ before birth? Of course, a court will not force a parent to donate a kidney to her dying offspring, but this sort of dependence on the parent's body is highly unusual and is not part of the ordinary obligations associated with the *natural* process of human development, just as in the case of the violinist's artificial dependency on the reluctant music lover.<sup>18</sup>

<sup>17</sup>Sommers, "Philosophers Against the Family," pp. 744–45.

<sup>18</sup>In order to strengthen Thomson's case, Robert Wennberg asks us to imagine that the violinist is the music lover's son. But, according to Wennberg, why should this make a *legal* difference? For "even though turning the stranger into a son may alter our *moral* evaluation of the case, I do not think

As Professor Schwarz points out: "So, the very thing that makes it plausible to say that the person in bed with the violinist has no duty to sustain him; namely, that he is a stranger unnaturally hooked up to him, is precisely what is absent in the case of the mother and her child." That is to say, the mother "does have an obligation to take care of her child, to sustain her, to protect her, and especially, to let her live in the only place where she can now be protected, nourished, and allowed to grow, namely the womb."<sup>19</sup>

Now if Thomson responds to this by saying that birth is the threshold at which parents become fully responsible, then she has begged the question, for her violinist argument was supposed to show us *why* there is no parental responsibility before birth. That is to say, Thomson can not appeal to birth as the decisive moment at which parents become responsible in order to prove that birth is the time at which parents become responsible.

It is evident that Thomson's violinist illustration undermines the deep *natural bond* between mother and child by making it seem no different than two strangers artificially hooked-up to each other so that one can "steal" the service of the other's kidneys. Never has something so human, so natural, so beautiful, and so wonderfully demanding of our human creativity and love been reduced to such a brutal caricature.

I am not saying that the unborn entity has an *absolute* natural claim to her mother's body, but simply that she has a *prima facie* natural claim. For one can easily imagine a situation in which this natural claim is outweighed by other important *prima facie* values, such as when a pregnancy significantly endangers the mother's life. Since the continuation of such a pregnancy would most likely entail the death of both mother and child, and since it is better that one human should live rather than two die, I believe that terminating such a pregnancy via abortion is morally justified.

Now someone may respond to the above four criticisms by agreeing that Thomson's violinist illustration may not apply in cases of ordinary sexual intercourse, but only in cases in which pregnancy results from rape or incest,<sup>20</sup> although it should be noted that Thomson herself does not press the rape argument. She writes: "Surely the question of whether you have a right to life at

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it would alter our conviction that we should not legally force the mother to remain hooked-up to the violinist" (Robert Wennberg, *Life in the Balance: Exploring the Abortion Controversy* [Grand Rapids, MI: Eerdmans, 1985], p. 159). By making the adult violinist—who needs to be artificially attached to any *healthy person* for survival—the woman's son, Wennberg does not really address my objection that a mother has an obligation not to detach her offspring during pregnancy when that detachment will result in its death, since (1) she, as with any other person, has an obligation not to kill another who is *solely* and *naturally* dependent on her and whose dependence does not cause significant harm; and (2) as its mother, she has a special parental obligation to nurture her child during *this* stage of his development.

<sup>19</sup>Stephen D. Schwarz, *The Moral Question of Abortion* (Chicago: Loyola Univ. Press, 1990), p. 118.

<sup>20</sup>Mary Anne Warren brings up this point when she writes: "The plausibility of such an argument is enough to show that the Thomson analogy can provide a clear and persuasive defense of a woman's right to obtain an abortion only with respect to those cases in which the woman is in no way responsible for her pregnancy, e.g., where it is due to rape" ("On the Moral and Legal Status of Abortion," in *The Problem of Abortion*, p. 108).

all, or of how you have it, shouldn't turn on the question of whether or not you are the product of rape."<sup>21</sup>

But those who do press the rape argument may choose to argue in the following way. Just as the sperm-donor is not responsible for how his sperm is used or what results from its use (e.g., it may be stolen, or an unmarried woman may purchase it, inseminate herself, and give birth to a child), the raped woman, who did not voluntarily engage in intercourse, cannot be held responsible for the unborn human who is living inside her.

But there is a problem with this analogy: The sperm-donor's relinquishing of responsibility *does not result in the death of a human life* while the raped woman's does. The following story should help to illustrate the differences and similarities between these two cases.<sup>22</sup>

Suppose that the sperm donated by the sperm-donor was stolen by an unscrupulous physician and inseminated into a woman. Although he is not morally responsible for the child which results from such an insemination, he is nevertheless forced by an unjust court to pay a large monthly sum for child support, a sum so large that it may drive him into serious debt, maybe even bankruptcy. This would be similar to the woman who became pregnant as a result of rape. She was unjustly violated and is supporting a human being against her will at an emotional and financial cost. Is it morally right for the sperm-donor to kill the child he is supporting in order to allegedly right the wrong which has been committed against him? Not at all, because such an act would be murder. Now if we assume, as does Thomson, that the raped woman is carrying a being who is fully human, her killing of the unborn entity by abortion, except if the pregnancy has a strong possibility of endangering her life, would be as unjust as the sperm-donor killing the child he is unjustly forced to support. As the victimized man may rightly refuse to pay the child support, the raped woman may rightly refuse to bring up her child after the pregnancy has to come to term. She can choose to put the child up for adoption. But in both cases, the killing of the child is not morally justified. Although neither the sperm-donor nor the rape victim has the same special obligation to their biological offspring as does the couple who voluntarily engaged in intercourse with no direct intention to produce a child, it seems that the more general obligation not to kill directly another human being does apply, which is supported by my fourth ethical objection.

4) *Thomson ignores the fact that abortion is indeed killing and not merely the withholding of treatment.* Thomson makes an excellent point in her use of the violinist story, namely, that there are times when withholding and/or withdrawing of medical treatment is morally justified. For instance, I am not morally obligated to donate my kidney to Fred, my next door neighbor, simply because he needs a kidney in order to live. In other words, I am not obligated to risk my life so that Fred may live a few years longer. Fred should not expect that of me. If, however, I donate one of my kidneys to Fred, I will have acted above and beyond the call

<sup>21</sup>Thomson, "A Defense of Abortion," p. 175.

<sup>22</sup>For more detailed responses to the rape argument, see Francis J. Beckwith, "Brave New Bible: A Reply to the Moderate Evangelical Position on Abortion," *Journal of the Evangelical Theological Society* 33 (1990), 506–507; and Schwarz, *The Moral Question of Abortion*, pp. 145–74.

of duty, since I will have performed a supererogatory moral act. But this case is not analogous to pregnancy and abortion.

Levin argues that there is an essential disanalogy between abortion and the unplugging of the violinist. In the case of the violinist (as well as my relationship to Fred's welfare), "the person who withdraws [or withholds] his assistance is not completely responsible for the dependency on him of the person who is about to die, while the mother *is* completely responsible for the dependency of her fetus on her. When one is completely responsible for dependence, refusal to continue to aid is indeed killing." For example, "if a woman brings a newborn home from the hospital, puts it in its crib and refuses to feed it until it has starved to death, it would be absurd to say that she simply refused to assist it and had done nothing for which she should be criminally liable."<sup>23</sup> In other words, just as the withholding of food kills the child after birth, in the case of abortion, it is the *abortion* which kills the child. In neither case is there any ailment from which the child suffers and which highly invasive medical treatment, with the cooperation of another's bodily organs, is necessary in order to cure this ailment and save the child's life.

Or consider a case parallel to rape. Suppose a person returns home after work to find a baby at his doorstep (like in the film with Tom Selleck, Ted Danson, and Steve Guttenberg, *Three Men and a Baby*). Suppose that no one else is able to take care of the child, but this person only has to take care of the child for nine months (after that time a couple will adopt the child). Imagine that this person will have some bouts with morning sickness, water retention, and other minor ailments. If we assume with Thomson that the unborn child is as much a person as you or I, would "withholding treatment" from this child and its subsequent death be justified on the basis that the homeowner was only "withholding treatment" of a child he did not *ask* for in order to benefit himself? Is any person, born or unborn, obligated to sacrifice his life because his death would benefit another person? Consequently, there is no doubt that such "withholding" of treatment (and it seems totally false to call ordinary shelter and sustenance "treatment") is indeed murder.

But is it even accurate to refer to abortion as the "withholding of support or treatment"? Professors Schwarz and R. K. Tacelli make the important point that although "a woman who has an abortion is indeed 'withholding support' from her unborn child. . . . abortion is far more than that. It is the active killing of a human person—by burning him, by crushing him, by dismembering him."<sup>24</sup> Euphemistically calling abortion the "withholding of support or treatment" makes about as much sense as calling suffocating someone with a pillow the withdrawing of oxygen.

In summary, then, of the four problems with Thomson's argument under the ethical category, I agree with Professor Brody when he concludes that "Thomson has not established the truth of her claim about abortion, primarily because she has not sufficiently attended to the distinction between our duty to save *X*'s life and our duty not to take it." But "once one attends to that distinction, it would

<sup>23</sup>Levin, *Feminism and Freedom*, pp. 288–89.

<sup>24</sup>Stephen D. Schwarz and R. K. Tacelli, "Abortion and Some Philosophers: A Critical Examination," *Public Affairs Quarterly* 3 (1989), 85.

seem that the mother, in order to regain control over her body, has no right to abort the fetus from the point at which it becomes a human being."<sup>25</sup>

Turning our attention now to the ideological category, we find that there are at least two problems in the use of Thomson's argument by others. Whether or not Thomson agrees with the following points is not relevant to the following critique, since many who use her argument do agree with these points.

1) *Inconsistent use of the burden of pregnancy.* Thomson has to paint pregnancy in the most horrific of terms in order to make her argument seem plausible. Dr. Bernard Nathanson, an obstetrician/gynecologist and former abortion-provider, objects "strenuously to Thomson's portrayal of pregnancy as a nine-month involuntary imprisonment in bed. This casts an unfair and wrongheaded prejudice against the consideration of the state of pregnancy and skews the argument." Nathanson points out that "pregnancy is not a 'sickness'. Few pregnant women are bedridden and many, emotionally and physically, have never felt better. For these it is a stimulating experience, even for mothers who originally did not 'want' to be pregnant." Unlike the person who is plugged into Thomson's violinist, "alpha [the unborn entity] does not hurt the mother by being 'plugged in,' . . . except in the case of well-defined medical indications." And "in those few cases where pregnancy is a medical penalty, it is a penalty lasting nine months."<sup>26</sup>

Compare and contrast Thomson's portrayal of pregnancy with the fact that researchers have recently discovered that many people believe that a pregnant woman cannot work as effectively as a non-pregnant woman who is employed to do the same job in the same workplace. This has upset a number of feminists, and rightfully so. They argue that a pregnant woman is not incapacitated or ill, but can work just as effectively as a non-pregnant woman.<sup>27</sup>

But why, then, do feminists who use Thomson's argument argue, when it comes to abortion, that pregnancy is similar to being bedridden and hooked up to a violinist for nine months? When it comes to equality in the workplace (and here I agree with the feminists) there is "no problem." But in the case of morally justifying abortion-rights, pregnancy is painted in the most horrific of terms. Although not *logically* fatal to the abortion-rights position, this sort of double-minded grandstanding is not conducive to good moral reasoning.

2) *The libertarian principles underlying Thomson's case are inconsistent with the state-mandated agenda of radical feminism.* If Thomson's violinist illustration works at all, it works contrary to the statist principles of radical feminism (of course, a libertarian feminist need not be fazed by this objection). Levin points out that "while appeal to an absolute right to the disposition of one's body coheres well with other strongly libertarian positions (laissez faire in the marketplace, parental autonomy in education of their children, freedom of private association), this appeal is most commonly made by feminists who are antilibertarian on just about every other issue." For example, "feminists who advocate state-mandated quotas, state-mandated comparable worth pay scales, the censor-

<sup>25</sup>Brody, *Abortion and the Sanctity of Human Life*, p. 30.

<sup>26</sup>Bernard Nathanson, M.D., *Aborting America* (New York: Doubleday, 1979), p. 220.

<sup>27</sup>Michelle Healy, "At Work: Maternity Bias," *USA Today* (July 30, 1990), 1A. Conducted by researcher Hal Grueutal of State University of New York, Albany, this survey found that 41% of those interviewed (133 women and 122 men at eight businesses in the Northeast) "said they think pregnancy hurts a woman's job performance."

ship of 'sexist' textbooks in the public schools, laws against 'sexually harassing speech' and legal limitations on private association excluding homosexuals, will go on to advocate abortion on the basis of an absolute libertarianism at odds with every one of those policies.''<sup>28</sup>

Although this criticism is *ad hominem*, as was the previous one, it serves to underscore the important political fact that many abortion rights advocates are more than willing to hold and earnestly defend contrary principles for the sake of legally mandating their ideological agenda.

<sup>28</sup>Levin, review of *Life in the Balance*, pp. 507–508.