

# Are Fetuses Being with any Moral Rights? A Perspective from Abortion

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**Abstract:** *The fetus destined to be born rather than aborted has become increasingly an object of medical and moral concern. The debate over fetal surgery, fetal rights, and maternal-fetal conflicts raises important ethical questions concerning the moral status of the fetus. The liberals doubt think that the fetuses should have moral rights at conception, and the conservatives challenges the liberal position. The paper pointed out five characteristics of personhood following Mary Anne Warren's view. I have shown the pro-life and pro-choice belief of when personhood begins. The pro-life believe that human personhood begins at conception, whereas the pro-choice holds contrary view is that personhood develops later during pregnancy or at childbirth. Finally, the paper concludes considering that there is no moral difference between a fetus and a born child as we cannot draw any line in its continuous development.*

**Keywords:** Continuous development, Conception, Personhood, Pro-choice, Pro-life

## 1. Introduction

The practice of abortion raises the question of morality of terminating a prenatal human life in response to the desire of others, who may be adversely affected by the birth. The subject has become one of the most emotionally and hotly debated social issues in the present time. The question, therefore, arises, are there sufficient reasons to justify the act of aborting a human fetus? This issue centres around two major principles: (1) the value of life principle, involving the unborn "conceptus", and the quality of life of the woman whose pregnancy is terminated and (2) the principle of individual freedom, applying to the woman's rights over her own body and procreativity. There are two extreme views on this issue: (1) the strong pro-life position, which holds that from conception onward the conceptus is a human being, a child, or a person with all rights accorded to any already born human being and whose life has equal value as any already born person. This view is also called the conservative theory of abortion because it emphasizes facts concerning life; (2) the opposed view is the strong pro-choice position, which states that an actual human being does not exist with full value and rights until birth, and that until that time the pregnant woman has rights that supersede the conceptus's right to be born. This outlook is often termed as the liberal theory of abortion because it emphasizes freedom of choice and the right of the woman to make decisions that affect her body and these rights supersede the rights of fetus till it is born.

Those who defend woman's right to abortion often refer to themselves as 'pro-active' rather than as 'pro-abortion'. In this way they seek to bypass the issue of the moral status of the fetus, and instead make the right to abortion a question of individual liberty. But it cannot simply be assumed that a woman's right to have an abortion is a question of individual liberty for it must first be established that the aborted fetus is a being not worthy of protection. If the fetus is not worthy of protection, then the laws against abortion would create 'victimless crimes'. So the question of moral status of the fetus cannot be avoided. Mary Anne Warren (1973) in her article "On the Moral and Legal Status of Abortion" holds that the fetus's human life begins after the first trimester. But the conservatives as well as some medical text books show that experts on human development agree that human

life begins at conception and continues in the mother's womb.

## 2. The Central Argument

The central argument against abortion would run as follows:

First Premise: It is wrong to kill an innocent human being.

Second Premise: A human fetus is an innocent human being.

Conclusion: Therefore, it is wrong to kill a human fetus.

The liberals would deny the second premise of this argument, because to them a fetus is not an innocent 'human being'. So the disputes centre on whether the fetus is a human being and further, whether human life begins at fertilization.

On this issue the conservatives' position is difficult to rule out. Most opposition to abortion relies on the premise that the fetus is human being, a person, from the moment of conception. The conservatives challenge the liberals to point out any stage in the continuum, between the zygote and the full grown child, which marks a morally significant dividing line between the two.

They further claim that, unless there is such a line, we cannot either upgrade the status of the earliest embryo to that of the child, or down grade the status of the child to that of the fetus. It may be noted, however, that no one morally wants to allow children to be dispatched on request of their parents and hence, the only tenable position would be to grant the fetus the protection we normally grant to the child.

## 3. Fetuses are not beings with any Moral Rights

The liberals do not think that fetuses should have moral rights at conception, because they do not possess certain traits that are necessary and sufficient for one to be called a person. The liberals attack the key premise of the conservative's argument, namely, "A human fetus is an innocent human being"

The term "human being" the liberals argue is an ambiguous term. It has two different meanings and they both point to

two different directions. The first meaning is what we usually think about when we hear the term ‘human’ and that is the genetic sense of the word. This means that humans are human beings only if they possess human genetic code namely that, a human being, in the biological sense, is an organism belonging to the species *Homo Sapiens*. Species membership is not a characteristic acquired during development; a human fetus, on this view, has been human as long as it has existed. Thus if conception is the beginning of fetal existence, then, according to this view, human fetuses have moral standing from conception. Thus the question “when does a fetus become human?” does not pose a problem for the conservatives. The second meaning is that, a being is human if it has moral worth. Regarding this second meaning Noonan points out that, the second feature of being human is that it has the potential capacity for rational thought. That is, fetuses are humans if they have moral worth and, moral worth is acquired only after certain characteristics are fulfilled. In other words in one sense, a human is biologically living cell or collection of living cells that contains DNA from the species *Homo Sapiens*. This includes an ovum, a spermatozoon, zygote, embryo, fetus, new born. This covers both infant as well as the adult being. In the other sense, ‘human life’ can be used to mean life that is distinctively human — that is, life characterised by psychological rather than biological properties — the ability to use symbols, to imagine, to love, to perform higher intellectual skills and so on. The ‘human being’ in this second psychological sense, having those characteristics, is granted civil rights, including the right to life. People may have different opinions about the point at which human life becomes a human person. There is a societal consensus about when a newborn is a human person. But people tend to disagree on whether a zygote, embryo, or fetus is also a human person. This is the main point of contention that causes conflict over access to abortion.

In fact, the liberals point out, in order to figure out the moral worth of the fetus, we must first know — what is personhood. Mary Anne Warren in her article “On the Moral and Legal Status of Abortion” has pointed to the already noted, five characteristics that would make a being — a person. The five characteristics of personhood in relation to moral worth are as follows: consciousness (ability to feel pain or pleasure), reasoning (the ability to act on reasons and solve-problems), self-motivated activity that is capacity to act freely, the capacity to communicate and, lastly, the presence of self-awareness (that is consciousness of oneself as existing overtime). Even though these are the five traits, only the first two are really important in determining personhood. Thus the liberals point out that as the fetus fails to satisfy any of the five criteria stated, it though genetically human, is certainly not a person. They further argue that, if these five criteria are indeed the primary criteria of personhood, then it is clear that genetic humanity is neither necessary nor sufficient for establishing that an entity is a person. A fetus, no doubt, is a human being but is not yet a person with full moral rights.

Against these views of the liberals, the conservatives may contend that, there are, no doubt, in many beings, who would not be considered to be worth anything morally, such as the severely disabled people and non-human animals who

do not show much, if any, signs of being able to reason. Nevertheless we believe that it is wrong to kill these beings because we still attach moral rights to their lives.

Thus, the liberals, the conservatives hold, fail to prove their view of personhood. People who do not have any ability to reason or are not conscious of themselves such as infants or mentally retarded people—should we not consider them to be persons? Should we not take care of them? Should we, in any way, take advantage of them only because of the lack of their power of reasoning? Thus it is ethically wrong to abuse or harm the person (including fetus) who is unable to exercise the power of reasoning.

#### 4. When does human personhood begin

Science tells us with increasing detail that the process starts with a sperm and ovum and ends up with a new born baby. But it cannot tell us anything about:

- Whether the fetus has a soul;
- Whether the products of conception make a person;
- Whether a zygote should be given the status of human rights; and finally
- Whether abortion is an act of murder.

These are questions which have philosophical, religious and even political bearings. Science cannot contribute much toward resolving them. Let us try to bring out the debate between the two positions in the following manner —

##### *The Pro-life belief.*

##### *It happened at conception.*

The pro-lifers believe that human personhood begins at conception. That is, a newly formed zygote (popularly called a ‘just fertilized ovum’) is a full human being and must be protected as such. It has rights including the right not to be deprived of its own life.

There are many reasons for the belief that personhood starts at conception:

- Some base their belief on their religious faith, that is, on their belief that religion teaches that God injects a soul into the zygote at the instant of conception. Even though it is composed of only one cell it becomes a human person at that time due to the presence of the soul. The concept of a soul is unique to certain religions.
- Others point out that shortly after conception, a unique DNA code is formed which remains unchanged throughout the life of the fetus, and even after birth. Scientists define this event as the start of a human organism or human life. Many pro-lifers assert that the presence of a unique human DNA code also signals the start of a human person.
- Almost everyone agrees that a newborn child is a human person. One can work backwards in time through the birth process, fetal development, embryo growth, pre-embryo stage, and finally end up at the zygote, the start of a human organism. Prior to that point, there was no human life. There was just an ovum and sperm, neither of which is considered a form of life by most scientists. Conception is the first point where a single, living human organism

exists and that has a good chance to grow and become a new born.

- The zygote is simply the earliest stage of human development; it is what human persons look like about nine months before they are born.

### *The pro-choice belief*

#### *It does not happen at conception*

Many pro-choice advocates believe that personhood does not occur at conception. It develops later during pregnancy or at childbirth. At conception a spermatozoon and ovum join to produce what is commonly called a “just fertilized ovum”, the proper medical term of which is ‘zygote’. Debates about abortion will never be resolved until the precise status of a human zygote is agreed upon: namely,

- Is it, or is it not, a human person.
- If it is not a human person, there needs to be some agreement on at what state of pregnancy the embryo or fetus attains personhood.

## 5. Conclusion

Finally, it may be said that those who wish to deny the fetus’ right to life may be on stronger grounds, if they challenge the first, rather than the second premise of the argument set out earlier. To describe a being as ‘human’ is to use the term that straddles on two distinct notions: as discussed earlier first, membership to the species ‘Homo Sapiens’, and second, being a person in the sense of a rational or self-conscious being. If ‘human’ is taken as equivalent to ‘person’, the second premise of the said argument, which asserts that the fetus is a human being is clearly false, for one cannot plausibly argue that a fetus is either rational or self-conscious. If, on the other hand, ‘human’ is taken to mean no more than ‘member of the species ‘Homo Sapiens’, then it needs to be shown why membership of a given biological species should be a sufficient basis for a right to life.

Thus the question about fetal personhood, more specifically, the question of when a developing human being becomes a person, and hence a full member of the moral community becomes the central issue. As the liberals reject the minor premise of the said formal argument that ‘A human fetus is an innocent human being’, —the conservatives attack the liberals (permissives) by saying that a fetus must be considered as a human being, that is a person from the beginning, a being who goes through growth and development, both inside and outside the womb of the mother. The development of the human being from conception through birth into childhood is continuous; hence it can be said that to draw a line, to choose a point in this development and say that ‘before this point the thing is not a person, and further that, after this point it is a person’— would be to make an arbitrary choice,—a choice for which no good reasons can be given. So the conservatives are of the opinion that, through the continuous development of the birth into childhood we cannot draw a line by saying that, ‘before this point the fetus can be killed and after this point it could not.’ Thus according to the Pro-life view there is no moral difference between a fetus and a born child.

In conclusion, then fetal reasons are definitely important while considering the continuance of pregnancy or having an abortion and these cannot be overlooked in trying to arrive at some clear moral policy about abortion.

## References

- [1] Some philosophers have argued that non-human animals deserve equal consideration of interest because, they too, like human beings, have the capacity to suffer pain or feel pleasure. Singer, Practical Ethics, Second edition, Cambridge University Press.
- [2] Fertilization is fusion of gametes to produce a new organism of the same species.
- [3] Implantation is an event that occurs early in pregnancy in which the embryo adheres to the wall of uterus.
- [4] The term ‘person’ is used informally to mean human. But in the field of law, philosophy, medicine and others, it means the presence of certain characteristics that grant a certain legal or moral standing.
- [5] <http://www.wikipedia.com>.
- [6] <http://www.wikipedia.com>.
- [7] Brody B. “On the Humanity of the Fetus”. In Beauchamp L. Walters LE (eds). Contemporary Issues in Bioethics, eds. California: Dickenson, 1978, pp. 229-240.
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- [9] Abortion: Law, Choice and Morality, New York, Macmillan; London, Collier—Macmillan, 1970.