

THE UNIVERSITY OF CALGARY

Individual Interests and Moral Integrity:

A Contemporary Debate on Abortion

by

Dominique Michelle Fournier

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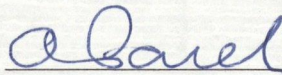
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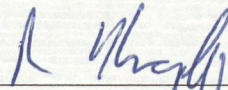


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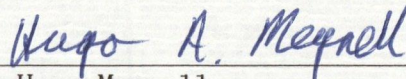
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ABSTRACT

This thesis addresses abortion as a moral issue. It contrasts two opposing views of morality. One holds that morality originates from a teleological conception of human nature and is fundamental to human fulfilment. This is contrasted with the view of morality that rejects our teleological nature and attributes morality to individual rights and interests, or to feelings of approbation and disapprobation.

The permissibility of abortion assumes that abortion does not infringe on anyone's rights thereby justifying moral acceptability. The impermissibility of abortion implies that abortion, as the voluntary taking of human life, is destructive of a human good and undermines human fulfilment thereby making it morally unacceptable.

I conclude that the modern conception of morality has destroyed moral integrity by undermining our teleological nature and human goods. The modern approach to abortion addresses it in a manner indicative of and contributive to the decay of the human soul and of modern community.

PREFACE

My initial aim in writing on abortion was to be able to make some kind of coherent argument about the inherently destructive aspect of the act. It seemed to me that far too much literature was focused on presenting abortion as a matter of personal choice, therefore outside the realm of objective examination.

I first thought of writing a paper on abortion after having read a book, given to me by my husband, entitled An Enquiry Concerning Human Abortion by Hank Van der Breggen. Although not a profound treatise on the subject, it was the first time that I had seen the issue of abortion set out so coherently and logically. It fuelled me to look into the topic further.

I had been writing on the modern conception of wealth. It was not until well into my writing on abortion that I realized that I had come full circle. My original topic founded its argument on the idea that, in order to present a sound interpretation of wealth and its purpose in human life one must first have a sound understanding of human nature. The foundation for my understanding of the moral character of abortion, and its implications for human beings, also comes from having clarified for myself, and hopefully for the reader, the proper end for human beings.

ACKNOWLEDGEMENTS

First I would like to thank my supervisor, Dr. Anthony Parel, whose patience and wisdom have been a source of great comfort and inspiration. In large part it has been thanks to Dr. Parel that the writing of this thesis was not only an academic accomplishment but a period of profound personal growth.

I have discovered that doing work of this nature one spends many months irritating friends and family. With this in mind I wish to thank my mother and father for their encouragement and financial support. Particularly I would like to thank my mum who spent many hours on long distance calls listening to me rant about my thesis, as well as about the regular personal crises that arose.

I wish to thank Ian Brodie, who has been one of the most frequent victims of my ramblings during this long project, for his ready ear and constant support. I would also like to thank father Louis Madey who encouraged me to write articles for the Pastoral Reporter, the southern Alberta Diocesan Newsletter. His trust in my ability, and frequent prompting to discuss my ideas provided me with an excellent milieu in which to clarify and solidify my thoughts.

Finally, and most importantly, I wish to thank Marco. His love and devotion have been, and continue to be, an irreplaceable source of inspiration and strength.

DEDICATION

I dedicate this thesis to Nana, a woman of strength and tenacity. And to my maternal grandparents Thelma and Archie McDonald, who have embodied the endurance and the meaning of true human love. Their influence in my life is more far reaching than any of them will ever know.

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INTRODUCTION

Most of us have some intuitive realization that human life is a good that in the majority of cases precedes, at least in the temporal realm, all other human goods. In fact life is that good without which all other goods would not be possible.¹ Granted, there are instances where rational individuals are willing to give up their lives out of patriotism, for the love of God and fellow man, or for the sake of justice. Although many men and women have sacrificed their lives for what they perceived to be a greater good, it is usually recognized that the sacrifice made is one of exceptional, and at times even glorious, import.

Today there is a shift in what was once a reverence for life. Some contemporary moral philosophers, physicians and academics have become advocates of what can only be called, in the opinion of this writer, a decline in respect and reverence for life. One only has to look at the way in which some present thinkers address such issues as abortion and euthanasia. Abortion is referred to as merely an issue of personal choice and a right to privacy, and euthanasia is argued to be an issue of death with dignity as well as a right to privacy.

Life is no longer seen as a glorious human good, rather it has

¹Richard McCormick, How Brave a New World? Dilemmas in Bioethics (Washington, D.C.: Georgetown University Press, 1981), 168.

become an issue of individual preference. Reverence for life has been replaced with a belief that a person's life, viewed as a matter of personal property, is to be disposed of as each individual pleases. The dignity of human life has become subordinated by the contemporary obsession with political freedom²—freedom from external interference in one's quest for that which one desires, the freedom to do as one pleases.

Some have contended that many of the contemporary conclusions about abortion, and more particularly its moral character, have opened the way for the present debate over euthanasia. It is, in part, for this reason I have chosen to address some of the most commonly held judgments on the morality of abortion and their underlying assumptions about human nature and human good.

The issue of abortion has been one which has put various conceptions of morality to the test. One might very well ask why abortion is an issue of morality at all? Is it not simply a matter of individual choice? Why frame a discussion of abortion in terms of morality? In response to this one could argue that any decision about the nature of abortion has implications for what one understands to be the nature of life, human relationships and human good.³ By the same

²Freedom carries with it many meanings, the classical notion of freedom that articulates a liberty existing within the self and claims that to be free is to live ruled by reason and not by one's passions. The freedom referred to above is not this freedom rather it is a freedom from, a negative freedom as Isaiah Berlin calls it. "I am normally said to be free to the degree to which a man or body of men interferes with my activity. Political liberty in this sense is simply the area within which a man can act unobstructed by others." Isaiah Berlin, "Two Concepts of Liberty" in Liberalism and its Critics ed. Michael Sandel (New York: New York University Press, 1984), 1-2.

³Stanley Hauerwas, Vision and Virtue (Notre Dame, Indiana: Fides/Claretian Publishers Inc., 1974), 128.

token what one perceives to be the nature of life, human relationships and human good will underlie the conclusion one draws about the rightness or wrongness of abortion.

In articulating a conception of the essence of human life a map will be drawn as to the end of human action and the essence of morality. If one conceives of human beings as naturally free from one another then right and wrong action will be seen as that which does not hinder the freedom of another yet still maintains order. Man's great desire for freedom is always limited by the same freedom held by every other man. There is always a risk, however, that some will not pay heed to the freedom and desires of others. To ensure that at least most people take into account one another there must be rules and conventions that regulate behaviour. The modern notion of rights presumes to set those rules. Morality here is nothing more than a means to fulfilling one's desires. If one desires to have an abortion it is morally right so long as it is not hindering the rights of another person.⁴

On the other hand if one conceives of human beings as naturally connected to one another and as sharing in a common, ultimate and supreme good that characterizes their very humanity then the measure of right and wrong action is its approximation to a common, ultimate and supreme good. Right and wrong cannot be measured according to individual desire nor by the quantifiable utility of the outcome of an act. It is the contention of this thesis that the latter outline of morality is indeed the proper one and with this in mind the moral

⁴One might assert that abortion infringes on the foetus' right to life.

character of abortion will be assessed.

Michael Tooley, Carol Gilligan, Judith Jarvis Thompson and Christine Overall, maintain that in some cases, if not all abortion is morally permissible. Michael Tooley further claims that if abortion is morally permissible then so is infanticide. His argument rests on the assumption that the morality of abortion relies on whether or not the foetus has a "serious right to life."⁵ His position also relies on a conception of morality that is based on the notion that what is moral is what does not infringe on one's rights, which themselves arise from an ability to desire something and be conscious of that desire.

Thompson bases her discussion of the moral acceptability of abortion on the idea that each individual is proprietor of his or her own person and no one has a right to use another's person without his or her permission.⁶ Overall shares Thomson's view of proprietorship and also makes a distinction between letting someone die and killing.⁷ Gilligan defines the morality of abortion according to each woman's interpretation of her own circumstances.⁸ What all these authors share is a conception of morality which does not include a view of an ultimate human good, and as a result particular human goods become as important or unimportant as we each choose to make them.

In contrast to the above, Richard McCormick, John Noonan, and

⁵Michael Tooley, Abortion and Infanticide (Oxford, England: Clarendon Press, 1983)

⁶Judith Jarvis Thompson, "A Defense of Abortion," Philosophy and Public Affairs 1 (1971): 47-66.

⁷Christine Overall, Ethics and Human Reproduction: A feminist Analysis (Boston: Allen and Unwin Publishers, 1987)

⁸Carol Gilligan, In a Different Voice (Massachusetts: Harvard University Press, 1982)

Germain Grisez assert that except for very serious circumstances in which there is a conflict between two equally basic goods abortion is morally unacceptable. These authors depart from a conception of morality that is parallel to the one outlined at the outset of this introduction.

The thrust of this thesis is to demonstrate that without a clear and consistent morality, conclusions about right and wrong become arbitrary and random. Why say that abortion is wrong at eight months but right at two? Is it because killing a not-yet-born human being at two months is more palatable than killing one at eight months? If so why? Once the facts about human development are examined it becomes clear that all human life begins at conception. Any cut-off point is, therefore, arbitrary. Human life is worthy of respect, dignity, and moral consideration at all its stages. The goodness of human life cannot be determined by means of instrumental calculation as to its net worth. If moral action is to be dictated according to our desires and interests and our laws are reflective of this, then we must prepare ourselves for the possibility of laws endorsing that the mentally impaired may not be worthy of moral consideration, nor the elderly, nor the sick. When human life, at any stage, is viewed in terms of its calculable interests and a morality mirrors this, then every human life is diminished and human dignity is neglected. As George Grant cautions "those who see life simply as a product of necessity and chance are inevitably more open to feticide, because they do not see the destiny

of meaning to which human beings are called."⁹ When laws in a given society are indicative of an instrumental view of human life and human relationships, then the society is sick and is cultivating this same sickness in the souls of its citizens.

Finally, in concluding that abortion is an immoral act in most instances, and that there are dangers in perceiving of abortion as an act free of responsibility I am proposing that there exists a static dimension to human beings. This static aspect of human beings requires us to avoid certain actions that are wrong for each one of us as individuals, as well as being wrong for the community to which we belong.

I have chosen to restrict my analysis to seven authors. First, I have done this for practical reasons because abortion is probably the most written about subject in the social and medical sciences. Second, after reading and scanning much of the material I realized that the same arguments were being repeated and re-articulated. These arguments I believe were best represented by the authors studied here. And finally they present a telling example of how the abortion debate is dichotomized by two very distinct philosophical anthropologies, or theories of human nature.

⁹George Grant, "The Triumph of the Will," in A Time to Choose life: Women, Abortion and Human Rights ed. Ian Gentles (Toronto, Ontario: Stoddart Publishing, 1991), 9-19.

CHAPTER ONE

MORALITY: RENEWING ITS MEANING

Because the purpose of this thesis is to draw out some of the implications of the more commonly held beliefs about the moral character of abortion our first task will be to examine differing notions of the nature and end of morality. In other words we will begin by deciphering what is meant by a morally acceptable act and what is meant by a morally unacceptable act, as well as why it is relevant to speak of morally right and morally wrong with regards to human action.

I. HUMAN NATURE AND MORAL ACTION

Any assertion about morality expresses assumptions about what is good and what is bad, what is right and what is wrong, for human beings. Hence every interpretation of the nature and end of morality comes from a particular conception of what constitutes the good for human beings, or what is man's nature. Leslie Stevenson states "different views about human nature lead naturally to different conclusions about what we ought to do and how we ought to do it."¹⁰ This is not to say that all interpretations of the nature of morality are equally valid. Although some interpretations of morality can be

¹⁰Leslie Stevenson, Seven Theories of Human Nature (New York: Oxford University Press, 1974), 3.

rhotorically compelling they may be based on premises about the good for human beings that, at best, are problematic.

In trying to uncover the end or purpose of morality the following must be answered: What is it about human beings that makes it reasonable to judge their actions as right or wrong? When an animal kills one of its own there is never a question as to whether it has committed an immoral act, but when a human being kills another human being this question is of great importance.

There are three human characteristics which are relevant to our inquiry: one is the human soul; another is human reason or rationality; and the third is human passion or desire. All thinkers from classical to contemporary understand human passion to be an influence in human action. Plato, Aristotle, and St.Thomas, for example, proposed that human passion is meant to be harnessed by human reason and made slave to reason. Though they recognized that passions have a powerful influence in human action they believed that man's happiness is dependant on his ability to control and guide his passions through reason. In contrast Thomas Hobbes and David Hume, for example, have argued that all human action ultimately is motivated by passion. They believed that human beings are pleasure seeking creatures and therefore their happiness is fulfilled only when their desires are fulfilled.

That human beings have a faculty called reason is agreed upon by all reasonable people. The purpose and end of reason, on the other hand, is contentious. St.Thomas Aquinas believed that reason has three purposes: to pursue God; to pursue knowledge for the sake of knowing, or contemplation; and to be the "rule and measure" of our conduct in

our practical lives.¹¹ Reason as contemplation helps us to apprehend what is best for our fulfillment, what is good for us as humans. But knowing what is good and best for ourselves does not translate into acting according to that knowledge. In the words of Yves Simon "I may know all there is to know about morality in theory but still remain totally undependable in my actual conduct."¹² Hence one must also possess reason as the rule and measure of human acts which guides us toward what is good. Because the focus of this inquiry is moral action we shall restrict this portion of the discussion to reason as a guide or measure of our conduct.

Unlike other beasts human beings are equipped with the ability to move beyond their instincts and sensual desires. Some have claimed that human beings are meant to be masters of their instincts and passions in order to fulfil their true human potential.¹³ When speaking of the fulfilment of human potential what is meant is "to actualize, and in a way to bring to the proper fullness, that structure in man which is characteristic for him because of his personality and also because of his being somebody and not merely something."¹⁴ Yves Simon also reminds us that "in order to be fully human, the mode of fulfillment of

¹¹St.Thomas Aquinas, On Law, Morality and Politics ed. William Baumgarth and Richard Regan (Indianapolis: Hackett Publishing Company, 1988), 12.

¹²Yves R. Simon, The Definition of Moral Virtue ed. Vukan Kuic (New York: Fordham University Press, 1986), 32.

¹³Aristotle The Nicomachean Ethics trans. and intro. David Ross (New York: Oxford University Press, 1988), bk.5 ch.13; St.Thomas Aquinas, Commentary on The Nicomachean Ethics trans. C.I. Litzinger (Chicago: Henry Regnery Company, 1964) lec.10 parag.241; Simon, 29-34 passim.

¹⁴Karol Wojtyla, The Acting Person (Dordrecht: D. Reidel Publishing Company, 1979), 151.

our tasks must be rational."¹⁵

St.Thomas' notion of human reason and its role in human conduct is based on the belief that human fulfillment and human happiness are not possible by merely satisfying sensual desires.¹⁶ Both animals and human beings share in the pleasure experienced in the fulfillment of bodily needs and desires, but only human beings can make rational sense out of these needs and desires and place them in a greater context, a context beyond themselves. This implies that complete happiness cannot be achieved at the level of sensation. One only need look at the human tendency never to be satisfied with what one has. The more we have the more we tend to want. So either human life is a constant search to achieve a fulfillment and happiness that is never possible or human fulfillment is more than simply seeking out bodily pleasures. If human happiness were simply a question of appeasing passions and satisfying desires, then human beings would have no need for the faculty of reason. We would only need follow our instincts. But because human beings are creatures who possess needs that exceed the realm of the sensual they also possess faculties that can enable them to reach their fulfillment. These non sensual needs exist in so far as human beings have what Aristotle, Aquinas and many philosophers before and after them refer to as a soul.

¹⁵Simon, p.34

¹⁶"The Soul is better than the body—which needs the soul to live and to possess these goods. Therefore the good of the soul, such as understanding and the like is better than a good of the body. Therefore the good of the body is not man's highest good.

Furthermore these goods are common to man and to other animals. But happiness is a good proper to man alone. Man's happiness therefore does not consist in the things mentioned above." St.Thomas Aquinas, On Politics and Ethics trans. and ed. Paul E. Sigmund (New York: W.W. Norton and Company, Inc.,1988), 7.

The notion that human beings are creatures with both body and soul is what fuels St.Thomas' understanding of reason. It is because of our composite nature that short term bodily pleasures, although temporarily satisfying, are never enough to give us any long term satisfaction. Acting on instinct can sometimes satisfy immediate desires for euphoric happiness and pleasure, but that happiness quickly fades and must be replaced by yet another means of pleasure. True human fulfillment and a lasting happiness require that we look to more long term satisfactions, which ultimately reside in a belief and quest for Truth.¹⁷ This sometimes requires us to ignore our instincts and passionate yearnings, it requires us to be "masters of our passions."¹⁸

Let us now turn to human action. Here I would like briefly to make a distinction between what is known as a human act or *actus humanus* and an act of man or *actus hominis*. A human act is "a free act proceeding from the will in view of an end apprehended by reason."¹⁹ A

¹⁷"The ultimate end of the whole man and of all his actions and all his desires is to know the first truth; namely, God." St.Thomas, On Politics and Ethics, 7.

¹⁸Socrates tells us that those who work simply to fulfil their passions are not masters of their lives but are slaves. "Slaves are they to luxury and lechery, intemperance and the wine-cup along with many a fond and ruinous ambition. These passions so cruelly belord it over the poor soul whom they have got under their thrall, that so long as he is in the heyday of health and strong to labour, they compel him to fetch and carry and lay at their feet the fruit of his toils, and to spend it on their own heart's lust; but as soon as he is seen to be incapable of further labour through old age, they leave him to his grey hairs and misery, and turn to seize other victims...Against these must we wage ceaseless war, for very freedom's sake, no less than if they were armed warriors endeavouring to make us their slaves...These despotic queens never cease to plague and torment their victims in body and soul and substance till their sway is ended." Xenophon, The Works of Xenophon trans. H.G. Dakyns (London: Macmillan and Co., Limited, 1897), 204.

¹⁹St.Thomas Aquinas, Summa Theologiae Ia, IIae, 1,3.

human act is a willed act, an act which is freely chosen without external force prompting it. According to St. Thomas moral acts and human acts are the same. On the other hand acts of man refer to acts that are simply the movement of limbs, for example walking, dressing oneself etc. An act of man also refers to an involuntary or reflex act which "is not a human act...for though it is the act of a human being, in the sense that it is performed by a human being, it does not proceed from him considered precisely as a rational free being."²⁰ To examine the scope of moral action our focus must be on actions that are directed by the will to an end apprehended by reason.

It has been maintained by certain philosophers that all human action, like "every art and every inquiry," is directed toward some good end or toward an end that is perceived "or thought to be good...known or thought to perfect in some way the subject who desires and chooses."²¹ No sane human being acts with the hope of achieving something bad for himself or herself. Hence all rational beings act with a good end in mind. A particular good or the good of an immediate end of any human action is judged in light of its approximation to, or harmony with, the supreme good for man. Particular goods would themselves have little meaning if there did not exist a supreme good for man, "since all particular ends or goods are desired and sought after as means to the attainment of the ultimate or final end."²² An act is not only judged to be good in so far as it results in or is

²⁰F.C. Copleston, Aquinas: An Introduction to the Life and Work of the Great Medieval Thinker (London: Penguin Books, 1988), 201.

²¹Aristotle, bk. 1, ch. 1.

²²Copleston, 202.

aimed at a good. The act itself must also be good, in its resemblance of or approximation to the Good.

Human beings are human in so far as they are creatures who need not be slaves to their instinct and passions. Their actions can be judged right or wrong, good or evil, because human beings are capable of reasoning and making choices about whether or not to act one way or another. With the above in mind what might one conclude about the end and purpose of moral action? A moral act has been defined as "a free act proceeding from the will in view of an end apprehended by reason." It has also been stated that the end of an action is sought as a means for the achievement of one's happiness and ultimate fulfillment. Thus the ultimate end and purpose of moral action may be understood as self-fulfillment or self-transformation. Self-transformation meaning that we are able to transcend or transform our natural tendency to act out of passion. This does not mean that it is unnatural to act out of reason, it simply suggests that unlike other animals we possess reason as part of our nature and reason frees us from being slaves to our passions. And the end of moral action is the fulfillment of one's composite or complete human nature.

Unlike the happiness of other creatures human happiness is not satisfied by the fulfillment of short term bodily pleasures and temporal goods. Rather human happiness demands on the fulfillment of long term goods. This does not preclude the fact that we do experience strong temptations to fulfil bodily pleasures, even at the expense of

our long term happiness.²³ But because humans are capable of reasoned behaviour they need not act on reflex or instinct. As a reasoning being man can transform himself and learn to overcome his temptations to indulge in short term pleasures. In other words man is not only capable of but is called to self-transformation. This self-transformation or self-fulfilment requires more than merely knowing what is good and best it also requires a will to act in light of the Good. And a will to act in light of the good can only arise from a habituation toward the good through regular right action in light of what is good and best. Though "instinct and custom may make us both behave and be happy," as Simon tells us, it is "only if we know what we are doing and why that we become fully human."²⁴ Consequently morally right action is willed with a good end in mind, a good that is apprehended by reason, and which is judged good in so far as it promotes one's human fulfillment or human transformation.

The above is an outline of what has traditionally been referred to as a teleological view of human nature. The following will outline what may be referred to as a mechanistic understanding of human nature. This view rejects the notion of an ultimate Good for human beings. Human ends, rather, are found in the tangible reality that can be perceived through the senses. Thomas Hobbes regarded human beings as

²³Take adultery for example. The temptation to indulge in the immediate pleasures of intimacy with someone to whom one is very attracted can be great. And though one may be aware that to indulge in such pleasures could hurt a number of people including oneself in the long run, one might chose to overlook the long term outcome for the sake of a few moments of pleasure.

²⁴Simon, 33.

bodies in motion.²⁵ He argued that human action is concerned with "voluntary motion" which is caused by "the motion of external things."²⁶ He believed that human beings are driven to respond to external stimuli which are internally interpreted by one of two kinds of human passions—appetites or aversions. Appetite is understood to be a motion "toward something which causes,"²⁷ and aversion is explained to be a motion "fromward something."²⁸ Therefore it is human passion that determines human action. Human beings so understood are rational choosers, in so far as human reason serves to interpret for the chooser what means best serve his passions and best deflects that to which he is averse. He argued that the best that human reason could accomplish is to direct the passions toward the most expedient means of satisfying appetites and avoiding aversions. Thoughts for Hobbes "are to the desires, as scouts, and spies, to range abroad, and find the way to the things desired."²⁹ Human reason is a sophisticated calculator that registers its surroundings and experiences, then recalls them in order to determine the most efficient means of satisfying one's passions. Human beings here are not unlike other species except human beings have the added advantage of this calculator called rationality.

All human action is determined by either one's appetites or one's aversions. As a result good and bad, right and wrong, are determined by

²⁵Thomas Hobbes, Leviathan ed. M. Oakeshott, intro. R.S. Peters (New York: Macmillan Publishing Company, 1962), 22.

²⁶Ibid., 47.

²⁷Ibid.

²⁸Ibid.

²⁹Ibid., 62.

whether or not something is pleasant or unpleasant. Hobbes states that "whatsoever is the object of any man's appetites or desire, that is it which he for his part calleth *good*: and the object of his hate and aversion, *evil*."³⁰ The greatest of human appetites is the appetite for power³¹ and the greatest of human aversions is fear of violent death.³² And each of these are the measure of all other appetites and aversions. Power is for Hobbes the greatest appetite because it is "the means to obtain future apparent good,"³³ while simultaneously being a means to help ward off a violent death. Because human beings are driven by their desires and are preoccupied with their self-preservation they are most happy when they are "free"³⁴ to pursue said desires and protect themselves with as little external hindrance as possible.

What would self-fulfillment be in a Hobbesian world? Fulfillment was previously referred to as the actualizing of human potentialities which, it was argued, occurs through proper action in light of man's ultimate and supreme end. If man has no ultimate end and his actions are motivated simply by his appetites then fulfillment must take on a very different meaning. Self-fulfillment and the achievement of one's happiness would be based on one's ability or freedom "to assure forever the way of [one's] future desire."³⁵ To fulfil oneself would not be to transform oneself internally, for that here is irrelevant, it would be

³⁰Ibid., 48.

³¹Ibid., 80.

³²Ibid., 100.

³³Ibid., 72.

³⁴free from impediments—negative freedom

³⁵Ibid., 80.

to transform one's surroundings. Self-fulfilment in this context is a question of accumulation as opposed to transformation. To fulfil oneself as a pleasure seeking creature consists in the accumulation of objects of desire and the possession of the power to ensure that one has the freedom to move within and toward all future desires. Whatever transformation that is sought is external; from poor to rich, from old to young, from fat to thin, from average to extraordinary.

Can actions be judged right or wrong if all action is precipitated by appetites and aversions? If right and wrong refer to doing what is best for man's *summum bonum* then the answer would have to be no. Only actions which are the result of free acts of will in view of an end apprehended by reason can be judged right or wrong. If an act is directed by the passions rather than reason, then there is no choice in the act itself. There may be a choice in the manner to accomplish the act, a calculation in the gains and losses,³⁶ but the act itself is driven by passion, reflex or instinct. And Aristotle tells us "we are not called good or bad on the ground of our passions, but we are so called on the ground of our virtues and vices."³⁷ As a result the Hobbesian world of "rational choosers" is either a world without morality or a world where morality is redefined or substituted.³⁸

For Hobbes and many philosophers after him the notion that moral

³⁶Human beings are rational, for the Hobbes, in so far as they may calculate the advantages and disadvantages of their choices. They are rational choosers.

³⁷Virtue is understood as "a state of character concerned with choice, lying in a mean, i.e the mean relative to us, this being determined by a rational principle, and by that principle by which man of practical wisdom would determine it." Aristotle, bk.2 ch.6.

³⁸Simon, 1-16 passim.

action is attached to a greater or supreme good is rejected. Morality is simply rules or conventions which arise out of a need to ensure a modicum of order within communities. Good is considered in terms of each individual's interest. For Hobbes that interest is the never-ending search to satisfy present and future desires. If all human beings are equally concerned with passions, and particularly the passion of self-preservation, then each man is equally concerned about the possibility of losing the object of his desires to another. For Hobbes it is the fear that others may wish to acquire that which is already one's own and may even kill one to do so, that prompts men to enter into a social agreement. Others such as Hume, Shaftesbury and Locke, thought in terms of a similar egoism, but it was more of an enlightened egoism, according to which human beings are not simply interested in themselves but also in those who are closely associated with them, for example their family and close friends. In Shaftesbury's case this affection would eventually extend to communities and larger societies, nevertheless any action that a human being partakes in starts with self-interest. For Hume the fact that one might be willing to take another into consideration is only possible in so far as he or she is able to be sympathetic to their experience. Stated differently the fact that one may not harm another or steal from another arises from one's own experience of not wanting such actions to be reciprocated. The way to ensure that most people respect the desires and life of others is to put forward certain rules that everyone must agree to follow. And, it is only once human beings are living in social settings, having escaped the state of nature or the state of war of all

against all,³⁹ that morality becomes relevant, morality being those rules and conventions which we all agree to adhere to for the sake of a peaceful setting for ourselves, that is for our own interest. Morality, or here moral norms and conventions, exists as a means to protect our interests within a social setting. Morality is a question of external regulations which help to restrict people's tendency toward taking what they wish and doing what they will.

Morality has been explained, on the one hand, as a state of character which prompts us to act for, and in light of, what is best for our ultimate human fulfilment. On the other hand, morality is argued to be agreed-upon rules and conventions which restrict our natural tendency to acquire what we desire and eliminate what we dislike. We will now consider the emotive theory of morality.

"Emotivism is the doctrine that all evaluative judgements and more specifically all moral judgements are nothing but expressions of preference, expressions of attitude or feeling, insofar as they are moral or evaluative in character."⁴⁰ Some have argued that the emotive interpretation of morality has its origin primarily in Hume.⁴¹

For Hume moral judgement emerges from a feeling, a "reflection

³⁹For thinkers such as Hobbes, Locke and Hume, Shaftesbury and other Enlightenment thinkers, human beings emerge out of a state of nature and enter into "civil society." In the state of nature good and bad are judged according to natural desires and aversions. Once in civil society good and bad are judged still in terms of desires and aversions with the added responsibilities toward the desires and aversions of others.

⁴⁰Alasdair MacIntyre, After Virtue (Notre Dame: University of Notre Dame Press, 1984), 11-12.

⁴¹"In the eighteenth century Hume embodied emotivist elements in the large and complex fabric of his moral theory; but it is only in this century that emotivism has flourished as a theory on its own." Ibid., 14.

into your own breast."⁴² One can only discover the good or bad in an act once one has looked into one's own sentiments about the act. Hume like Hobbes believed that reason does not move one to action; only the passions can accomplish this.⁴³ He tells us that "nothing can be more real, or concern us more, than our own sentiments of pleasure and uneasiness."⁴⁴ The contemporary emotivist sees moral judgement as originating in one's feelings. There is no objective criterion for moral action. Moral action arises out of the feelings of the individual actor. Moral action is relative to the actor's personal experience and feelings. Moral action is self-centred and self-interested. It might be contended that emotivism not only takes into account the actor's feelings but also the feelings of his neighbour. As Hume states "the minds of all men are similar in their feelings and operations, nor can any one be actuated by any affection, of which all others are not, in some degree, susceptible."⁴⁵ For example, all people have a desire not to have their lives unwillingly taken, therefore all human beings understand it as a desire that must be protected. If we all share similar desires we can all realize that certain actions are harmful to others and we should not engage in them. In the event that there are those who are indifferent to the feelings and desires of others we may set up rules to protect certain universal desires and feelings. However, because morality is not only a matter of those rules which are

⁴²David Hume, A Treatise of Human Nature (London: Penguin Classics, 1984), 520.

⁴³Ibid., 509.

⁴⁴Ibid., 521.

⁴⁵Ibid., 626.

set up to regulate responsibility for public feelings, but also an issue of each individual's personal feelings about right and wrong, there is a distinction between what is sometimes referred to as one's private morality and a more general or public morality.

For the emotivist there are two kinds of morality, that which addresses one's personal life and that which addresses the public realm. But if my personal feelings about harming another human being, who I feel is deserving of harm, conflicts with a more general public feeling that one should not unduly harm others why would I, or should I, refrain from harming them. Is it because there are good reasons for doing so? Is it because there exists some sort of implicit obligation to do so? Or is it not, ultimately, because it makes me feel good to do so? To admit that there are good rational reasons for acting in light of another's good as well as my own, assumes that there exists some objective measure for acting. But for the emotivist there is no objective measure to which to appeal because feelings are always subjective.

Here arises the problem of manipulation which MacIntyre refers to in his book After Virtue. He warns that contemporary moral conflicts are always interminable because "evaluative argument is and always must be rationally interminable."⁴⁶ This is true because all discourse is an expression of feelings. If there is no rational origin for moral beliefs then the only means of resolving conflicts of a moral nature is by manipulation. The emotivist believes that there is some impersonal criterion which allows him to resolve the moral conflict. However, as

⁴⁶MacIntyre, 11.

MacIntyre cautions, within the context of an emotivist notion of morality "the sole reality of distinctively moral discourse is the attempt of one will to align the attitudes, feelings, preferences and choices of another with its own." Human beings are transformed from subjects to objects and "others are always a means never an end."⁴⁷ I must convince my opponent that what I feel is more appropriate than what she feels but by means of manipulation not by reasoned discourse. In so far as one is being manipulated one is being used as a means to another's end.

Similar to the previous concepts of human nature emotivism has its conception of self-fulfilment. For the emotivist self-fulfillment resides in what one feels is best for oneself. Charles Taylor uses the term narcissistic to describe a conception of self-fulfilment which arises from a belief that the good for man exists only in each individual's interpretation of it. The emotivist approach to self-fulfilment would approach the Hobbesian notion of self-fulfilment except that the emotivist would take it one step further. That is to say for the emotivist self-fulfilment can have no rational foundation. Reason cannot find answers to, or find resolutions for, emotional and perceptual queries within the self any more than it can find them between individuals. One does not think about what is right or wrong for oneself, one feels it. Self-fulfilment concerns itself with doing what is appropriate according to each individual's own construction of what is right and good for him or her.

⁴⁷Ibid., 24.

II. MORALITY AND HUMAN ASSOCIATION

There is one more dimension of moral action which must be explored before concluding this chapter: the social aspect or character of moral action. In the Hobbesian notion of human nature moral action resulted from the coming together of individuals, who are naturally free from one another, into civilized society. Prior to any civil society there is no such thing as morality per se in so far as morality is nothing more than conventional rules set up so as to maintain order in society. If, as Hobbes argues, one of man's greatest desires is to be free to do as he pleases and to acquire and seek out all that is and will be desirable to him, then what would prompt him to give any of this freedom up and follow rules?

Hobbes would tell us that in the state of nature, or the state of complete freedom, all men are equal in their desires for things and their ability to acquire them. In the state of nature, the natural condition of man is portrayed by Hobbes as being one of constant war.⁴⁸ In a state of constant war, war to survive and avoid violent death, and war to protect one's property, life is one devoid of conceptions of time, art, literature or society, "and which is worst of all, continual fear, and danger of violent death"⁴⁹ and each individual's life is "solitary, poor, nasty, brutish, and short."⁵⁰ Men are not social by nature, and only by moving out of the state of nature can man find some sort of security and escape from his fear of violent death. Ultimately man is social, good and agreeable out of fear.

⁴⁸Hobbes, 100.

⁴⁹Ibid.

⁵⁰Ibid.

Not all thinkers of his time shared Hobbes' paranoia about the state of nature. Thinkers such as John Locke believed that human beings share, in the state of nature as well as in civil society, a certain affection for one another. Indeed for Locke man comes together in civil society primarily to protect his property.⁵¹ Despite the seemingly more charitable interpretation of human nature, human association within community was still perceived to arise out of fear of one another, mistrust, and individual self-absorption or self-centredness. C.B. Macpherson refers to the above explanations for human association as "possessive individualism."⁵²

Macpherson explains that possessive individualism assumes that human beings are human in so far as they are free "from the dependence of the wills of others." All human beings are "free from any relations with others except those relations which the individual enters voluntarily with a view to his own interest."⁵³ Since each individual's freedom and humanity are defined according to his ability

⁵¹"If Man in the State of Nature be so free, as has been said; If he be absolute Lord of his own Person and Possessions, equal to the greatest, and subject to no Body, why will he part with his Freedom?...To which 'tis obvious to Answer, that though in the state of Nature he hath such a right, yet the Enjoyment of it is very uncertain, and constantly exposed to the Invasion of others. For all being Kings as much as he, every Man his Equal, and the greater part no strict Observers of Equity and Justice, the enjoyment of the property he has in this state is very unsafe, very unsecure. This makes him willing to quit this Condition, which however free, is full of fears and continual dangers: And 'tis not without reason, that he seeks out, and is willing to join in Society with others who are already united, or have a mind to unite of the mutual preservation of their Lives, Liberty and Estates, which I call by the general Name, Property." John Locke, Two Treatise of Government (New York: Cambridge University Press, 1988), chap.9, s123.

⁵²C.B. Macpherson, The Political Theory of Possessive Individualism (Oxford: Oxford University Press, 1985), 263-277, passim.

⁵³Ibid., 263.

to enter into "self-interested relations" with others which in turn depends on "having exclusive control of (rights in) his own person and capabilities and since proprietorship is the generalized form of such control," each person is proprietor of his or her capabilities.⁵⁴ Any limit on an individual's freedom is only legitimate in so far as they are necessary to "secure the same freedom for others."⁵⁵ Human association exists in order to protect each "individual's property in his person and goods, and ... for the maintenance of orderly relations of exchange between individuals regarded as proprietors of themselves."⁵⁶ Societies arise out of a rational calculation that our interests are better served within such a setting.

For the emotivist human interaction arises out of feelings for one another. I associate myself with those who share similar feelings about similar things, while simultaneously respecting those who do not share my feelings. The ideal social setting for the emotivist is one in which we all have the freedom from any interference with our quest to indulge in our desires, while respecting the same freedom for others. Why respect another's freedom one might ask? The rational individualist would argue that it is in my interest to respect the freedom of others in so far as I wish others to respect my freedom. To the emotivist the reason is quite simple it feels good to make others feel good and others feel good when they are allowed to indulge in their desires and interests.

Turning to MacIntyre we recall that in the context of emotivism I

⁵⁴Ibid.

⁵⁵Ibid., 264.

⁵⁶Ibid.

reason and evaluate as a means for "the expression of my own feelings or attitudes and the transformation of the feelings and attitudes of others."⁵⁷ There is no rational objective criterion to turn to for one's assessment of good or bad. There are only individual attitudes about it. Therefore dialogue ceases and the only means of finding common ground is through manipulation. In other words I believe that abortion is wrong, whereas you believe it is right, unless we have some rational point from which we can agree to start from we must turn to manipulative means of persuasion. I must convince you by invoking feelings of disgust for abortion or you must convince me by invoking feelings of approval. Ultimately any means can be justified in order to achieve our individual causes. I once heard someone state that lies are always justified when the goal is believed to be just. But the necessity of lies to address an opponents argument only arises when the foundations of one's position are unsound or unjust.⁵⁸ MacIntyre warns that the social content to a philosophy like emotivism "entails the obliteration of any genuine distinction between manipulative and non-manipulative social relations."⁵⁹

Within the context of an anthropology which is so entirely self-centred, what might be the nature of human relationships? According to Charles Taylor an understanding of human nature which is entirely focused on a "purely personal understanding of self-fulfilment [makes]

⁵⁷MacIntyre, 24.

⁵⁸"It is the very heart of fascism to think that what matters is not what is true, but what one holds to be true. What one holds to be true is important because it can produce that resolute will, tuned to its own triumph." Grant, "The Triumph of the Will," 16.

⁵⁹MacIntyre, 23.

the various associations and communities in which the person enters purely instrumental in its significance."⁶⁰ Why is this so? If my only source of reference is my feelings then my decision to associate with and enter into relationships with others must be because it is pleasing to me. In other words I associate with others not because it is good, not because it is necessary, but because it is advantageous. Others become instruments of my pleasure; they are means to my desire for companionship, sexual gratification, financial stability, etc.

The above arguments assume in one manner or another that human association is chosen, that human beings can choose to exist in complete isolation from each other or to live together. But what if human beings are by their very nature social and political creatures? To propose that human beings are social as well as political by nature is to imply that only within a social setting, that is within a community, can human beings live truly human lives. As St. Thomas tells us,

man is by nature a political and social animal. Even more than other animals he lives in groups (*multitudine*). This is demonstrated by the requirements of his nature. Nature has given other animals food, furry covering, teeth, and horns and claws—or at least speed of flight—as means to defend themselves. Man however, is given none of these by nature. Instead he has been given the use of his reason to secure all these things by the work of his hands. But a man cannot secure all these by himself. Therefore it is natural for man to live in

⁶⁰ Charles Taylor, The Malaise of Modernity (Concord: House of Anansi Press Limited, 1991), 43.

association with his fellows.⁶¹

But does this claim contradict what has already been stated as to man's need to live in community? Did not Hobbes assert that man lives together in society to fulfil certain needs? How is the above different from an individualistic or utilitarian interpretation of human association?

It has already been argued that some thinkers view human association as an evolution or outgrowth of individual self interest. Although my own interests are paramount to me I am willing to forgo some of them in order to be able to live in a reasonably stable environment which in turn allows me to fulfil at least some, if not most, of my desires. It is easier to live together under certain restrictions than to live alone in constant fear of one another. What St.Thomas is stating is not that human beings decide that they should live together because it is in their interest, rather he is arguing that man has no other alternative, that human association is not a matter of choice or interest but a matter of man's nature. The term association itself means "a body of persons organized for a common purpose; mental connection of ideas; companionship."⁶² Only human beings can associate in the truest sense of the word in so far as only human beings are capable of being connected through common purposes and ideas. For St.Thomas the most telling proof of man's social nature is "his faculty of expressing his ideas to other men through the medium of

⁶¹St.Thomas Aquinas, On Politics and Ethics, ed. and trans. Paul E. Sigmund (New York: W.W. Norton and Company, 1988), 14.

⁶²The Oxford Dictionary of Current English, 1987 ed., s.v. "association."

language."⁶³ Community is the milieu in which each individual lives his or her life in "close connection with neighbour and is, as it were, nourished by reciprocal personal communion with them amid an intimate coexistence in society."⁶⁴ Human association exists as an inherent feature of each human being, it is not fabricated or invented it exists within the fabric of human nature as our ability to breathe, eat and procreate exist.

For the rational egoist morality is connected to community as a convenient set of rules that ensures a certain amount of order in an otherwise unpredictable and uncertain life. For the emotivist, who define good and bad as that which evokes feelings of approbation and disapprobation, morality is also sets of rules or conventions that are necessary to provide for those members of society who may be emotional deviants. For the realist morality is a state of character that allows human beings to do what is best for themselves as human beings. Morally right action is action that is willed toward a good end apprehended by reason. But what is the connection to community?

Richard McCormick claims that "true moral insight is mediated to the individual through participation in the community."⁶⁵ For the rational egoist as well as for the emotivist morality and community are

⁶³Frederick Copleston, S.J., A History of Philosophy vol. 2 (New York: An Image Book, Doubleday, 1985), 413. "It is not possible for one man to arrive at the knowledge of all these things through the use of his reason. Thus it is necessary for him to live in society so that one person can help another and different men can employ their reasons in different ways, one in medicine, and others in this or that endeavour. This is most clearly demonstrated by the fact that man uses language to communicate his thoughts fully to others." St.Thomas, 15.

⁶⁴Sacred Congregation for the Doctrine of the Faith, Vatican Declaration on Abortion (Saskatchewan: Marian Press, 1982), 4.

⁶⁵McCormick, How Brave a New World?, 13.

to a greater or lesser degree fabricated for admitted or implied self-interest. For the realist morality and community are part of human nature, are necessary for human fulfilment and mark each individual's humanness. Morality and community therefore are understood as connected. Action that is morally good or right is good or right in so far as its aim is toward the end for man as man and is good in and of itself. In light of man's relationship to community his actions should be not only good for him but also must take into consideration their impact on his community. Aristotle is said to argue that

the good for the individual by himself will be his good to the extent that we can grasp it without considering his relations to a state; and Aristotle warns that the extent is quite limited, since we find the complete good for an individual only when we consider his relations to the state.⁶⁶

The good for an individual cannot be seen in isolation from the good for other human beings. Hence, it is fallacious to claim that what is morally good for an individual depends on his desires and feelings. First because one's feelings and desires cannot be judged good or bad, for we cannot know what is in the hearts of others. And second my feelings are my own whereas human goods are available to all.

Human action or moral action occurs within a human context meaning that the implications of human action reach not only within the individual actor but also to other individuals in his or her community. Moral action has its starting point within an individual actor but the outcome of moral action touches not only the actor but his community as well. One might say that moral action is at the same time personal and

⁶⁶Terence Irwin, Aristotle's First Principles (Oxford: Clarendon Press, 1990), 352.

interpersonal.

The existence of morality or moral virtue emerges from man's teleological existence. It presumes that we come into being with an end particular to humans and that certain actions are conducive or proper to the fulfilment of our end and others are destructive of it. The end that philosophers like Aristotle and St.Thomas had in mind is an end that ultimately transcends immediate human ends such as the satisfaction of our appetites and desires. Alasdair MacIntyre explains it as follows:

Within a teleological scheme there is a fundamental contrast between man-as-he-happens-to-be and man-as-he-should-be-if-he-realized-his-essential-nature. Ethics is the science which is to enable men to understand how they make the transition from the former state to the latter. Ethics therefore in this view presupposes some account of the essence of man as a rational animal and above all some account of the human telos.⁶⁷

According to MacIntyre to attempt to articulate a conception of morality while at the same time rejecting man's teleological nature is incoherent. He is suggesting that it is impossible for one to arrive at a consistent, reasonable, and acceptable answer to moral questions without taking into consideration man's proper end.

If one assumes that human beings are primarily egoistic an intelligible reason for them freely to curb their passions for the sake of others is always fragile. Concepts such as rational self-interest presume that despite man's natural egoism he is able to transcend complete self-centredness through his sympathy for the interests and desires of others. But truly moral choices do not emerge from self-

⁶⁷MacIntyre, 52.

interested compromises. Ultimately the risk for conflicts of interest is more prevalent in a context where right and wrong are judged based on self-interest. What measure is to be used to gauge which interest is more deserving of preference? In so far as a teleological notion of human nature requires a self-transformation and a curbing of one's passions and desires to make them conform to what is good for me as a human, there is less likely to arise conflicts among what is good for me as a human and what is good for my neighbour as a human.⁶⁸ It is unlikely that there will be conflicts between the goods of individuals because "the good is neither mine peculiarly nor yours peculiarly—goods are not private property."⁶⁹ What each individual feels and desires for himself can often prompt conflict as Hobbes points out, but what is *best* for human beings is available to all and belongs to none in particular.

III. ABORTION AND MORALITY

Keeping in mind the above interpretations of what constitutes the good for man, the end and purpose of moral action and the subsequent interpretations of what it means to fulfil oneself or one's nature, we turn to the issue of abortion. How are the above arguments relevant to the question of the moral character of abortion? It is the contention of this thesis that any conclusion about the moral character of abortion will vary according to the given interpretation of the nature

⁶⁸This is not to say that such conflicts do not arise, for example in situations where two lives are at stake but only one can be saved. This manner of conflict will be addressed in a discussion of the principle of double effect, in chapter 3.

⁶⁹MacIntyre, 229.

and end of morality in particular and the nature and end of man in general.

Abortion is defined as "the procuring of premature delivery so as to destroy offspring."⁷⁰ The procurement of an abortion normally involves a choice of what course of action will be taken. Unless an abortion is physically forced upon a woman or physically withheld from her she always has a choice as to whether or not to abort her child. By the same token a doctor also always has a choice as to whether he or she will perform an abortion. Abortion is a free act proceeding from the will toward an end apprehended by reason, that end being the termination of a pregnancy and the necessary death of a human life.

The next question which arises is whether or not abortion is morally permissible or morally impermissible. Some argue that abortion is always morally permissible. Others assert that abortion is morally permissible in most circumstances with some exceptions. And there are those who claim that abortion, except under very strict conditions, is always morally impermissible. These arguments will be the focus of the next two chapters.

⁷⁰Oxford English Dictionary, ed. 1967, s.v. "abortion."

CHAPTER TWO

THE PERMISSIBILITY OF ABORTION: A MORAL ARGUMENT?

The literature on abortion is permeated with many arguments as to why one could or should conclude that abortion is morally permissible. Some claim that the foetus is not a human person until birth and therefore need not be given any moral considerations. Others state that in the earlier stages of existence or until considered viable, viability meaning that time at which the not-yet-born child is capable of surviving outside the mother's womb,⁷¹ the foetus has not developed to the point where moral consideration need be given. Still others argue that though it may be asserted that a foetus is human and therefore should be given some moral consideration we need not give such a human being the same moral consideration that we would give to "fully developed" human beings.

⁷¹"Viability: capable of living or existing or (of foetus) maintaining life. The Oxford Dictionary of Current English, 1987 ed., s.v. "viability."; "Viability is the capability of a pre-natal child to live in a place other than his or her mother's womb. If a child is capable of living outside the womb, without or with medical help, then the child is considered viable. If a child is not capable of living outside the womb, without and with medical help, the child is considered nonviable. In other words, viability involves the relationship between a human being and his or her life-sustaining environment." Hank Van der Breggen, An Enquiry Concerning Human Abortion (Burlington, Ontario: Crown Publications, 1988), 19. The point of viability is contentious because with the advent of new technologies doctors are able to save premature infants at an earlier stage. In the U.S. viability is legally deemed to start in the third trimester, yet premature infants as young as twenty weeks old have been delivered and have survived.

As we examine these assumptions in the arguments of Michael Tooley, Judith Jarvis Thomson, Christine Overall, and Carol Gilligan, it will become evident that some hold that there are certain categories of human being that are less worthy of being treated with dignity than others. The human foetus is one such category of human being. It will also be observed that in order to justify the moral permissibility of abortion morality is reinterpreted.

I. AN ARGUMENT AS TO WHY ABORTION AND INFANTICIDE ARE ALWAYS JUSTIFIED

It has been argued that before any conclusions can be drawn about the moral status of abortion first the foetus' right to life must be ascertained. In the words of Michael Tooley, author of the book Abortion and Infanticide, "the problem of the morality of abortion cannot be resolved until one has a plausible account of the moral status of human foetuses."⁷² By a plausible account of the moral status of the human foetus Tooley means that it must be demonstrated that a human foetus has a "serious right to life."⁷³ The morality of abortion depends on whether the foetus has a right to life, which in turn requires a determination of those "properties, other than potentialities, [that] suffice to endow an entity with a right to life."⁷⁴ It is not enough to argue against abortion on the basis of the rights of the foetus as a human being or as a member of the species homo sapiens, for that is to argue on the basis of species,

⁷²Michael Tooley, Abortion and Infanticide (Oxford, England: Oxford University Press, 1983), 49.

⁷³Ibid.

⁷⁴Ibid., 35.

and 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 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.⁷⁵

Tooley concludes that only "persons" have a right to life because only persons possess those properties that are necessary in order to have rights.⁷⁶

Tooley tells us that "an organism possesses a serious right to life only if it possesses the concept of self as a continuing subject of experiences and other mental states, and believes that it is itself such a continuing entity."⁷⁷ In order for a subject to desire that itself should continue to exist "as a subject of experience and other mental states" it must first believe that "it is now such a subject." In other words a subject possesses a right to life once it possesses self-consciousness.

Self-consciousness is important to Tooley's argument because it is the determining factor in a being's ability to possess rights. To say that someone has a right to something is to recognize "that there is a conceptual connection between specific rights and the capacities

⁷⁵Michael Tooley, "Abortion and Infanticide" Philosophy and Public Affairs 2 (1972-73): 51.

⁷⁶Idem, Abortion and Infanticide 59-77 passim.

⁷⁷Idem, "Abortion and Infanticide," 44.

for specific [that in turn] presupposes desires."⁷⁸ Only a self-conscious being is capable of desiring and recognizing that she is desiring. We can assume that animals desire certain things such as life in so far as we can observe them fight to survive. But we cannot extrapolate from this observation that an animal recognizes or is conscious that his fight for survival is a desire for life. We can ascertain human consciousness of a desire for life in a variety of ways. One way is a person articulating such a desire. Another is observing a person planning for the future. So to say that someone has a right to life is to say that she has a desire to live and that she is conscious of said desire. This, however, need not be a stated or even implied desire for, as Tooley claims, an individual does not have to have an explicit desire in order for it to be the case that something is in his/her interest.⁷⁹ An individual must at least have at one time a desire for life and must be conscious of that desire for life in order that it be the case that he/she has a serious right to life. Hence if an individual is in a coma or unconscious they do not lose their right to life simply because they are momentarily incapable of desiring life. Tooley formulates his argument as follows:

- (1) The concept of a right is such that an individual cannot have a right at time *t* to continued existence unless the individual is such that it can be in its interest at time *t* that it continue to exist.
- (2) The continued existence of a given subject of consciousness cannot be in that individual's interest at time *t* unless *either* that individual has a desire, at time *t*, to continue to exist as a subject of consciousness, *or* that

⁷⁸Idem, Abortion and Infanticide, 122.

⁷⁹Ibid., 117.

individual can have desires at other times.

(3) An individual cannot have a desire to continue to exist as a subject of consciousness unless it possesses the concept of a continuing self or mental substance.

(4) An individual existing at one time cannot have desires at other times unless there is at least one time at which it possesses the concept of a continuing self or mental substance.

Therefore:

(5) An individual cannot have a right to continued existence unless there is at least one time at which it possesses the concept of a continuing self or mental substance.⁸⁰

A right to life or "to continued existence" requires that an individual at one time has had an awareness of herself as subject of continuing existence and other mental states. Having already had such self-consciousness it may be argued that even in cases where said individual is asleep, has lost consciousness or is in a coma she must still be entitled to a right to life. This is true, says Tooley, because it may be rationally assumed that, although said individual at time *t* is incapable of asserting and defending her right to life, she would still have a desire for continued existence and therefore an interest to live.⁸¹

One might ask why a foetus may not be considered to be an individual who can be assumed to have a right to continued existence in so far as she has a potential for a future desire for continued existence. Tooley responds to this by arguing that "a subject of interests, in the relevant sense of interest, must necessarily be a subject of conscious states, including experiences and desires."⁸² A

⁸⁰ Ibid., 121.

⁸¹ Ibid., 109.

⁸² Ibid., 119.

foetus, is not yet such subject because "it has not developed to the point where there is any subject of consciousness associated with it. It cannot therefore have any interests at all, and *a fortiori*, it cannot have any interest in its own continued existence."⁸³ This being the case Tooley also argues that a new born is no more a possessor of a serious right to life than a foetus is in so far as a newborn is no more conscious of itself as a subject of desires and interest than a foetus is.

Tooley later repudiates the argument that it is morally wrong to kill a foetus because it has a *potential* for self-consciousness. He rejects the potentiality argument based on what he refers to as "the symmetry principle." According to this principle "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."⁸⁴ Tooley proposes that one suppose that at some future time a chemical is created that could be injected into kittens endowing them with those properties fulfil the self-consciousness requirement. In such an instance "it would surely be morally indefensible...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."⁸⁵ But it would not be morally wrong to inject the kitten with the chemical, nor to kill it. "The possibility of transforming kittens into persons will not make it

⁸³Ibid.

⁸⁴Idem, "Abortion and Infanticide," 60.

⁸⁵Ibid., 61.

any more wrong to kill newborn kittens than it is now."⁸⁶ If it is not wrong to refrain from initiating the process of development of the kitten, according to the symmetry principle "neither is it wrong to interfere with such a process."⁸⁷ Finally if it is not wrong to interfere with the process in the injected kitten either by neutralizing the process with another chemical or by simply killing the kitten then "neither can it be seriously wrong to destroy a member of Homo sapiens which lacks such properties, but will naturally come to have them."⁸⁸ This being said Tooley concludes that

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 foetus will come to possess those properties shared by adult human beings. But...if it is wrong to kill a human foetus it cannot be because of its potentialities.⁸⁹

The potential to become a person who possesses self-consciousness in itself cannot be the grounds for granting that a foetus is entitled to any moral consideration.

Let us now turn to Tooley's conception of rights. According to Tooley "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."⁹⁰ Obligations here are "conditional ones." That is "they are dependent upon the existence of

⁸⁶Ibid.

⁸⁷Ibid.

⁸⁸Ibid.

⁸⁹Ibid., 62.

⁹⁰Ibid., 44.

certain desires of the individual to whom the right is ascribed."⁹¹ He explains it as follows: "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."⁹² If one is to concede that A has a right to X then one is essentially agreeing that in so far as A desires X and that it can be reasonably recognized that X is in the interest of A others have an obligation to refrain from taking X from A. So John has a right to life only in so far as at one point he possessed those properties that allowed him to desire life, he was conscious of himself as a self-conscious self, thus making life an interest of John's. John need not be desiring life at the moment that one is attempting to take it for it to be a violation of his right to life; he need simply have already experienced a desire for life and must be capable of experiencing it at a future time. Rights here are defined in terms of desires and desires are limited by an individual's self-consciousness as a subject of desire.

Finally Tooley holds that if a foetus does not have a serious right to life because it does not possess a concept of continuing self then nor does a new born baby. He states "that a new born baby does not possess the concept of a continuing self, no more than a newborn kitten possesses such a concept. If so, infanticide during a time interval shortly after birth must be morally acceptable."⁹³

⁹¹Ibid.

⁹²Ibid., 45.

⁹³Ibid., 63.

II. RIGHT TO LIFE AND RIGHT TO PROPERTY

Not all thinkers who argue for the moral permissibility of abortion do so on the grounds that the foetus does not possess a right to life. Judith Jarvis Thomson begins her essay on the moral permissibility of abortion by asserting that even if one assumes that a foetus is a human being who possesses rights and a right to life, one need not conclude that abortion is impermissible.⁹⁴ The aim of her essay is "to raise doubts about the argument that abortion is impermissible because the foetus is a person, and all persons have a right to life."⁹⁵ She sets out to demonstrate by means of various analogies that in most cases a woman who chooses abortion is making a morally permissible choice.

For the sake of argument she proposes that the personhood of the foetus be granted, then she proposes the possibility of the following argument:

Every person has a right to life. So the foetus has a right to life. No doubt the mother has a right to decide what shall happen in and to her body...But surely a person's right to life is stronger and more stringent than the mother's right to decide what happens in and to her body, and so outweighs it."⁹⁶

The above reasoning assumes that the foetus is a person with the right to life and cannot be stripped of this right thereby making abortion impermissible.

Thomson proceeds to disprove the proposition of the supremacy of

⁹⁴Judith Jarvis Thompson, "A Defense of Abortion," Philosophy and Public Affairs 1 (1971): 47-66.

⁹⁵Judith Jarvis Thompson, "Rights and Death," Philosophy and Public Affairs 2 (1972-73): 146.

⁹⁶Idem, "A Defense of Abortion," 48.

the foetus' right to life along with a number of other arguments that conclude the moral impermissibility of abortion. These arguments range from what Thomson calls "the extreme view"⁹⁷ that abortion is always impermissible even to save the life of the mother, to a less stringent yet still restrictive view that abortion may be utilized to save the life of the mother or in cases such as rape or incest but under any other circumstances it is morally impermissible.

Thomson's aim is to demonstrate that a person's right to life does not guarantee "either that he has a right to be given the use of whatever he needs for life, or that he has a right to continued use of whatever he is currently using, and needs for life."⁹⁸ In order to illustrate the point Thomson elaborates for us the following hypothetical situation:

Let me ask you to imagine this. 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 for music lovers has canvassed all the available medical records and found that you alone have the right blood type. 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 nine months. By then he will have recovered from his ailment, and can safely be unplugged from you."⁹⁹

⁹⁷Ibid., 50.

⁹⁸Idem, "Rights and Deaths," 146.

⁹⁹Idem, "A Defense of Abortion," 48.

For Thomson this situation demonstrates that there are instances in which an individual's right to life may and does hinder another's right to life and comfort. In the circumstances of her imaginary story the violinist's right to life cannot justify the forcible abduction of an unknowing person and his subsequent detention. For Thomson the violinist story is analogous to certain situations in which the mother cannot or will not bring her child to term. Using the same logic as in the violinist analogy she proposes that the unborn child, though having a right to life, does not have the right to use the body of its mother in order to sustain its life. There are, therefore, instances where the procuring of an abortion is morally permissible.

Let us examine what Thomson means by morally permissible and what she appears to understand rights to imply. She asks quite correctly, how does one arrive at the conclusion that abortion is morally impermissible from the so-called right to life of the foetus?¹⁰⁰ Yet she like Tooley bases the moral legitimacy of abortion on the priority of a woman's rights over the unborn's. Hence morality hinges here too on the weight of the rights of the unborn. Unlike Tooley, however, while Thomson is "arguing for the permissibility of abortion in some cases, [she is] not arguing for the right to secure the death of the unborn child."¹⁰¹ What needs to be clarified is how she is able to demonstrate the permissibility of abortion in some cases and the moral impermissibility of abortion in other cases?

¹⁰⁰For it seems to me to be of great interest to ask what happens if, for the sake of argument, we allow the premise [that the foetus is a person]. How, precisely, are we supposed to get from there to the conclusion that abortion is morally impermissible? Ibid.

¹⁰¹Ibid., 66.

In the case of abortion to save the life of the mother she argues that even given that the fetus has a right to life it must be presumed that the mother has an equal right to life. How, then, can it be concluded that abortion may not be performed?¹⁰² Perhaps we should add to the mothers right to life "her right to decide what happens in and to her body?"¹⁰³ If this were done would not the sum of the mother's rights being violated outweigh the single violation of the right to life of the fetus? What about the mother's right to self-defense? Are we not allowed to defend ourselves against the threat of death? If carrying the child to term would kill the mother is it not morally permissible to try and save the life of the mother even if it means taking the life of the fetus?

Thomson tells us that some argue that no matter what the circumstance taking the life of another innocent human being is morally wrong. She contends that to some an abortion to save the life of the mother "would be directly killing the child, whereas doing nothing would not be killing the mother, but only letting her die."¹⁰⁴ By direct killing Thomson means "either killing as an end in itself, or killing as a means to some end, for example, the end of saving someone else's life."¹⁰⁵ To kill a human being directly is murder and murder is always morally impermissible therefore abortions must be morally

¹⁰²Ibid., 50.

¹⁰³Ibid.

¹⁰⁴Ibid.

¹⁰⁵Ibid.

impermissible.¹⁰⁶ However, Thomson rejects this assumption that an abortion to save the life of the mother is morally wrong. It cannot be seriously considered to be murder, she proposes, if a woman undergoes an abortion to save her own life. No one is morally bound to refrain from saving oneself.¹⁰⁷ She tells us; "a woman surely can defend her life against the threat to it posed by the unborn child, even if doing so involves its death."¹⁰⁸

Thomson argues that even if it is granted that the foetus has a right to life this does not imply that it is not morally permissible, under certain circumstances to abort the foetus.¹⁰⁹ In her view the right to life can include a right to be given "the bare minimum" that is needed for continued existence, but not if this minimum includes something one has no right to.¹¹⁰ For example what if one was burning up with fever and the only cure was the "cool hand" of Henry Fonda on one's fevered brow? Does this mean that one has a right to the use of

¹⁰⁶If direct killing an innocent person is murder and thus impermissible, then the mother's killing the innocent person inside her is murder, and thus is impermissible. Ibid., 51.

¹⁰⁷Let us look again at the case of you and the violinist. There you are, in bed with the violinist, and the director of the hospital says to you, "It's all most distressing, and I deeply sympathize, but you see this is putting an additional strain on your kidneys, and you'll be dead within the month. But you have to stay where you are all the same. Because unplugging you would be directly killing an innocent violinist, and that's murder, and that's impermissible." If anything in the world is true, it is that you do not commit murder, you do not do what is impermissible, if you reach around to your back and unplug yourself from that violinist to save your life. Ibid., 52.

¹⁰⁸Ibid., 53.

¹⁰⁹"I am arguing only 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." Ibid., 56.

¹¹⁰Ibid., 55.

Henry Fonda's cool hand?¹¹¹ Does the violinist have the right to use your kidney's simply because he has a right to life? In neither case does the person whose life is threatened have a right to either Fonda's hand nor your kidneys. This is true according to Thomson because nobody has the right to make use of your body unless "you give him such a right."¹¹² Thomson surmises that rather than consisting in the right not to be killed the right to life consists in the right not to be killed unjustly.¹¹³ Abortion is only morally impermissible in those instances when it can be proven that the unborn is being killed unjustly; in other words when it can be proven that the killing of the foetus is directly taking from it something to which it has a right.¹¹⁴

The line of argument that Thomson is using presupposes that a woman is proprietor of her own body¹¹⁵ and as such has final say as to its use. If this is true then a woman need not continue with a pregnancy unless she chooses to do so, in so far as it is her body and the unborn has no prior right to use her body unless she agrees to allow him to use it. Thomson concedes that there are circumstances where a woman ought not to have an abortion and ought to allow the child to live but it does not follow from this that the foetus has a right to use her body. Although you ought to let the unborn child make

¹¹¹Ibid.

¹¹²Ibid.

¹¹³Ibid., 57.

¹¹⁴Ibid.

¹¹⁵"No doubt a mother has a right to decide what shall happen in and to her body; everyone would grant that." Ibid., 48.

use of your body at some inconvenience¹¹⁶ if you choose not to "we should say that...you are...self-centred and callous, indecent in fact, but not unjust."¹¹⁷ One may presume that one ought to give up some time and some convenience in order to allow the child continued existence in one's body; however, it may not be concluded that he has a right to do so. To make such a claim would be to grant that the child has a right against the mother which in turn "is going to make the question of whether or not [one] has a right to a thing turn on how easy it is to provide [one] with it; and this seems...morally unacceptable."¹¹⁸

Thomson further suggests that refusing to allow a pregnancy to continue is the moral equivalent of refusing to be a good Samaritan. If it can be argued that there are times when the costs are too great to demand that one be a good Samaritan then surely there are times when the costs are too great for a woman to make sacrifices in order for an unborn child to be carried to term. Thomson says "it is not morally required of anyone that he give long stretches of his life...to sustaining the life of a person who has no special right to demand it."¹¹⁹ Nowhere in the world is there a law which requires anyone to be anything but a minimally decent Samaritans.¹²⁰ Therefore it may not be demanded of someone to be morally bound to be anything but a

¹¹⁶In the same way one ought to let the violinist use one's kidney for one hour. Ibid., 61.

¹¹⁷Ibid.

¹¹⁸Ibid., 60.

¹¹⁹Ibid., 63.

¹²⁰For the distinction between the good samaritan and the minimally decent samaritan see Thomson's essay "A Defense of Abortion," 62.

minimally decent Samaritan.

Thomson closes by addressing and ultimately dismissing the possibility that a woman has some kind of "special responsibility" toward her unborn child.

Surely we do not have any such "special responsibility" for a person unless we have assumed it, explicitly or implicitly. If a set of parents do not try to prevent pregnancy, do not obtain an abortion, but rather take it home with them, then they have assumed responsibility for it, they have given it rights, and they cannot *now* withdraw support from it at the cost of its life because they now find it difficult to go on providing for it.¹²¹

If on the other hand a couple has done everything in their power to avoid getting pregnant yet, as is apt to happen no matter how careful two people are, they do conceive "they may wish to assume responsibility for it, or they may not wish to. And [she] is suggesting that if assuming responsibility for it would require large sacrifices, they may refuse."¹²²

Though Thomson is proposing that abortion is not necessarily morally wrong simply because the foetus has a right to life she is not arguing that it is morally permissible to secure the death of the unborn. She states "while I am arguing for the permissibility of abortion in some cases, I am not arguing for the right to secure the death of the unborn child."¹²³ What she has tried to do is demonstrate that no one is morally expected to give up any amount of time and convenience so as to ensure the survival of another. If one's action,

¹²¹Ibid., 65.

¹²²Ibid.

¹²³Ibid., 66.

having an abortion or unplugging oneself from the violinist, results in the death of another it should not be assumed that one is necessarily responsible for directly killing the other. The intention is to be freed from the unauthorized invasion of one's person, and although one may be accused of being "self-centred and callous, indecent in fact," it may not be argued that one's action is unjust.¹²⁴ As much as her argument supports a woman's choice to have an abortion as a morally permissible act in some instances, for example pregnancy due to rape, she claims that it also "allows for and supports our sense that in other cases resort to abortion is even positively indecent."¹²⁵

Christine Overall, in her book Ethics and Human reproduction: A Feminist Analysis, agrees with Thomson that the moral character of abortion need not depend on whether the foetus has a right to life because that right does not guarantee the embryo foetus the added right to use the mother's body for its survival. Overall claims that the moral impermissibility of abortion has "depended primarily upon the indubitable empirical fact that abortion results in the death of the embryo/foetus."¹²⁶ However the arrival of new reproductive technologies has put this fact into question. Overall tells us that abortion, rather than consisting in causing the death of the unborn must also be considered to consist in the premature emptying of the

¹²⁴Ibid., 61.

¹²⁵It would be indecent in the woman to request an abortion, and indecent in a doctor to perform it, if she is in her seventh month, and wants the abortion just to avoid the nuisance of postponing a trip abroad. Ibid., 65.

¹²⁶Christine Overall, Ethics and Human Reproduction: A Feminist Analysis (Boston, Mass.: Allen and Unwin, 1987), 68.

uterus.¹²⁷ One might counter that because the emptying of the uterus results in the death of the unborn one cannot separate the act of emptying and the act of killing in abortion. But Overall warns that the two acts are "distinct, though causally related"¹²⁸ and their distinction has been recognized by other philosophers and in such principles as the Catholic doctrine of double effect. And though it is still not possible to save the unborn in the earlier stages of gestation technology is well on its way to solving this problem so that there will be a point in the not-too-distant future where abortion will not mean the killing of the unborn but simply the emptying of the uterus.¹²⁹ It is this potential development that provides, says Overall, "the opportunity for a reexamination of the issue of the morality of abortion."¹³⁰ It also allows for a separation of the two alleged rights which are seen by many to be in conflict with one another, the right to life of the unborn and the right of the pregnant woman to control her body.

Overall's intention is to discuss abortion in terms of rights but rather than to do this by arguing rights claims, she will address the abortion question in terms of the absence of rights. By rights Overall refers to "special claims or entitlements that can be set aside or

¹²⁷Ibid.

¹²⁸Ibid., 69.

¹²⁹"[T]he nature of abortion and of the related moral issues is changing and will change further because of recent developments in reproductive technology. These developments will mean that the two hitherto causally linked events, (1) the emptying to the uterus and (2) the death of the embryo/fetus can be severed. The expulsion of the embryo/fetus will no longer mean its death." Ibid.

¹³⁰Ibid., 70.

interfered with, if at all, only on the basis of other compelling moral grounds."¹³¹

By admitting that the unborn might have a right to life does not necessarily preclude the moral permissibility of abortion. This is true, says Overall, because though the embryo/foetus has a right to life it does not have a right to occupy the mother's uterus. The not-yet-born child's lack of a right to "occupancy" in its mother's uterus is what Overall refers to as "a specific instance of the more general principle that no one has the right to the use of anyone else's body: that is, presumably, part of what makes rape and slavery wrong."¹³² In most cases a woman's desire for abortion is not a desire for the death of the foetus, a desire to infringe on the right to life of the not-yet-born, but a desire to cease being pregnant, to have one's uterus emptied. When a woman has an abortion, argues Overall, she "seems to be saying that she does not want and will not permit, the embryo/foetus to occupy her uterus. Her goal is clearly to end her pregnancy, but not necessarily to kill the embryo/foetus."¹³³ And where a woman has an abortion with the desire to kill the embryo/foetus Overall asserts that this is morally wrong.¹³⁴

Finally that the foetus has no general right to occupy its

¹³¹Ibid., 71.

¹³²Ibid., 77.

¹³³Ibid., 81.

¹³⁴"Writers like H. Tristran Engelhart Jr., are mistaken when they claim that the use of abortifacient devices that guarantee the death of the embryo/fetus is justified by "a woman's interest in not being a mother," and that "one would wish as well to forbid attempts, against the will of the mother, to sustain the life of an abortus prior to the established [legal] upper limit for abortions." Ibid., 82.

mother's body does not preclude the possibility that "it might sometimes be wrong for a woman in some circumstances to end the embryo/foetus' occupancy of her uterus, and this might be so regardless of the fact that it has no general right to such occupancy."¹³⁵ For Overall abortion is morally wrong only in those instances where the actors involved intend to kill the embryo/foetus. And, in so far as she believes that in most cases the desire is not to kill but to empty abortion is more often morally permissible.

III. ABORTION AS A PATH TO MATURITY

Carol Gilligan, in her book In a Different Voice, implies that abortion is morally permissible in most instances. She does not refer to the rightness or wrongness of abortion in terms of a woman's right to choose and the child's right to life, although an interest for both mother and child is implied when she claims that a woman's consideration of "whether to continue or abort a pregnancy" is the contemplation of "a decision which affects both self and others."¹³⁶ In Gilligan's book there is a appreciation that abortion is an issue that is not entirely personal in nature, and not entirely dependent on a particular individual's rights. This comes through most clearly in Gilligan's use of the notion of responsibility as it relates to moral decisions and community.¹³⁷

The notions of responsibility and choice are the main focus of Gilligan's work on morality. Responsibility to self and to community is

¹³⁵Ibid., 79.

¹³⁶Gilligan, In a Different Voice, 71.

¹³⁷Ibid., 79.

impossible without choice. Gilligan implies that in having the choice to abort or not women finally are able to free themselves from the limits of traditional conceptions of woman's role and for the first time learn what it is to make a truly mature and responsible decision. The choice to abort is ultimately a woman's to make. She is finally being "asked whether she wishes to interrupt that stream of life which for centuries has immersed her in the passivity of dependence while at the same time imposing on her the responsibility of care."¹³⁸ For Gilligan the issue of abortion, like all other moral issues, is a question of the tension between what she refers to as "an ethic of care" and "a morality of rights."¹³⁹ She concludes that moral decisions can only be moral once one has the freedom to make a choice, rather than being bound to one decision based on some real or perceived obligation to one option. She says

when birth control and abortion provide women with effective means for controlling their fertility, the dilemma of choice enters a central arena of women's lives. Then the relationships that have traditionally defined women's identities and framed their moral judgments no longer flow inevitably from their reproductive capacity but become matters of decision over which they have control. Released from the passivity and reticence of a sexuality that binds them in dependence, women can question with Freud what it is that they want and can assert their own answer to that question.¹⁴⁰

By implicitly or explicitly telling women that abortion is not an inherently undesirable choice, that is by having legislation which

¹³⁸Ibid.

¹³⁹Ibid., 136.

¹⁴⁰Ibid., 70.

places one's right to privacy above any regulation on abortion, or by having no policy at all, women have finally been allowed the freedom to make a truly moral choice. Abortion is not an act that is necessarily an undesirable act in so far as it can be an opportunity for personal growth.

IV. REDEFINING MORALITY

All of the above arguments share in their implicit or explicit assumptions that moral action is connected to rights. For Tooley, Thomson, and Overall, an action is morally wrong only when it violates someone's rights. For Gilligan without certain rights we are not free to make choices and, therefore, we are unable to behave as truly moral agents. Would it be justified to argue that for the above authors modern rights are a precursor to, or a foundation of, moral action? The very notion that the prerequisite for moral right or wrong is the existence or absence of rights, or the violation thereof, would suggest that it is.

We might then ask what assumptions Tooley, Thomson, Overall, and Gilligan are making about human nature. Let us begin by looking at Michael Tooley's claims about morality or what he refers to as systems of morality. He asserts that in order for a moral system or set of moral rules to be binding on an individual they must be accompanied by parallel desires. He states "beliefs that are unaccompanied by relevant desires, do not, it would seem, affect what one is likely to do."¹⁴¹ In the tradition of Thomas Hobbes, Tooley is asserting that one is

¹⁴¹Ibid., 20.

inclined to act one way or another from a desire or interest in the act and/or the outcome of the act. For example, John may have been told that stealing is wrong, but if his desire to have something that is only attainable to him through theft outweighs his desire not to be imprisoned then having been told that stealing is wrong would have no effect on him. Or as Tooley states,

to believe that some state of affairs is the case is not necessarily to be motivated to act in any particular way. A person who has learned that he is drinking contaminated water will usually stop, but this is because he will usually desire not to get sick.¹⁴²

Right and wrong are then judged by each individual's desires and interests. If people had no interest in safeguarding their property then theft would not be morally wrong. But then what prevents individuals from acting on their own interests regardless of the interest of others? Is this not a recipe for anarchy and chaos? Would people choose to adhere to one "ethical system over another, even if ethical statements are neither true nor false or even if there are no objective value?"¹⁴³ Clearly people do in so far as most societies adhere to some standard of acceptable or unacceptable actions. But why? Tooley tells us that "one possibility is some relation to the interests of people living together in society."¹⁴⁴ That is most people would prefer to live in societies which have some form of moral rules despite their restrictive nature, rather than live in a society which "had no

¹⁴²Tooley, Abortion and Infanticide, 20.

¹⁴³Ibid., 22.

¹⁴⁴Ibid.

moral rules at all."¹⁴⁵

Morality and morally right action, for Tooley, means adhering to certain rudimentary rules that we choose to follow in so far as we would rather not live in a society without rules. He says,

one can therefore say that, given the desires that people normally have, they have a reason for preferring a society with moral rules to one without. Similarly, it seems true to say that systems of moral rules vary considerably with respect to the impact they have upon the interests of people in general. If so then people have a reason for preferring some systems of moral rules to others.¹⁴⁶

There is no objective foundation for the validity of moral statements, but this does not mean that there is no way in which two ethical systems can be rationally compared. Because Tooley defines "rational" not in the sense that there is evidence that makes it likely that they are true, but in the sense that it is in the interest of people in general to accept them."¹⁴⁷

Finally Tooley claims that some attention should be given to moral feelings. Although he warns that moral feelings can be unreliable indicators of correct moral principles,

with the passage of time,...moral rules will change, and it seems plausible that a major factor that will influence the direction of change, if ethical principles are neither true or false, is the effect that acceptance of various principles has upon the interests of people in general. There will be a tendency, then, for societies to adopt moral principles that stand in closer and closer relation to the interests of people. As a result, moral feelings will gradually become more reliable

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid., 23.

indicators of what ethical principles ought to be accepted.¹⁴⁸

Therefore it is plausible for Tooley that "some sort of limited, and derived, significance"¹⁴⁹ be ascribed to moral feelings.

Tooley is implying that man is moved primarily by his feelings and corresponding desires and interests. In which case reason is instrumental and influences human action in so far as it corresponds to desires and interests. Human beings living together choose to adhere to moral rules because, generally speaking, people would rather live in a society with some rules than with none. Morality becomes parameters that are set as means of regulation. And if morality is parameters then so are rights, since rights are ascribed and a means of asserting "prima facie obligations" other individuals have to act or refrain from acting toward another.¹⁵⁰ Rights here are simply a means of articulating each individual's interests, and so is morality.

Similarly Thomson equates morality with that which may or may not unjustly impinge upon the rights of another. For example she argues that, in the case of her violinist, it is not morally impermissible to detach oneself from said violinist even if doing so would kill the violinist. It would be morally impermissible on the other hand to slash the violinist's throat in order to free oneself of him.¹⁵¹ The former is permissible because the violinist never had a right to be attached

¹⁴⁸Ibid., 26.

¹⁴⁹Ibid., 30.

¹⁵⁰Ibid., 119.

¹⁵¹Thomson, "A Defense of Abortion," 56.

to you in the first place and hence by detaching yourself there is no violation of his rights as he had no right to use your body to begin with. In the second instance you are directly violating his right to life.¹⁵² She further infers that what is morally wrong must be shown to be directly caused and intended, and that what is morally wrong is that which is actively done and not passively refrained from being done. Again we see this in her violinist analogy, in her claim that the intention of unplugging oneself from the violinist has as its end to be freed from him and not his death. Also because the violinist never did have a right to use your body it is not actively violating a right to withhold that which was never his in the first place. According to Thomson the death of the violinist that results from you not being attached to him any longer occurs only incidentally.

Like Tooley, both Thomson and Overall suggest that our moral obligation to another depends on the existence of their right to claim it. So if someone is very ill and requires aid from me, for example Thomson's violinist, there exists no moral obligation to give said aid. If I choose to allow myself to be attached to the violinist the most that can be said is that I have chosen to be a Good Samaritan. If I deem the action to be too much trouble then I may be a very selfish person but I cannot be called immoral, because the violinist has no prior right to my blood even if it is the only way that his life can be saved. His eventual death is tragic and one might rightly accuse me of being selfish and uncaring, but I cannot be accused of being unjust. Our sole requirement toward others is not to infringe upon their

¹⁵²Ibid.

rights, where those rights can be demonstrated to exist. This Thomson would equate to being a "minimally Decent Samaritan."

For Overall and Thomson, as it is for Tooley, the action of an individual only has moral implications in so far as it may or may not infringe on the rights of others, or when we may or may not be acting out of a justified right. Thomson and Overall go on to argue that having a right does not guarantee one the permission to do as one pleases in order to secure said right.¹⁵³ Having a right simply means that others are expected to refrain from actions which infringe on my right but it does not give me the added right to use whatever means are at my disposal to secure my initial right.

If we were to admit that a foetus is a human being with certain rights, one of those rights being the right to life, then why is it permissible for the mother to abort, thereby killing, the foetus? One may wish to argue that the foetus is infringing on certain of his or her mother's "freedoms", but is it just for her to infringe on her child's freedom to live? Thomson and Overall may choose to side step this by claiming that the intent is not to take away life, but to be free of the foetus. The reality of a mother freeing herself from her unborn child, however, is that the child dies.

According to Thomson the fact that a foetus may have a right to

¹⁵³ Thomson claims that "the right to life consists not in the right not to be killed, but rather in the right not to be killed unjustly." So all persons, argues Thomson, have a right to life but this 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." Thomson, "A Defense of Abortion" p.56; Overall states that rather than making a claim about the woman's right to control her body as a defense for abortion she bases her argument on the "more general principle that no one has a right to the use of anyone else's body; that is, presumably, part of what makes rape and slavery wrong." Overall, 77.

life does not necessarily preclude the moral permissibility of abortion in most cases. This is true because one's obligation and responsibility to another lies in that person's right to have one act in one way rather than another.¹⁵⁴ And according to Overall the foetus' real or perceived right to life does not involve the added right to the use of a woman's uterus to secure a right to life.¹⁵⁵ The only instance in which we can be said to have any responsibility toward another is if one implicitly or explicitly assumes responsibility. In the case of parents and their unborn child responsibility only arises, says Thomson, "if a set of parents do not try to prevent pregnancy, do not obtain an abortion, but rather take it home with them."¹⁵⁶ In this manner, Thomson argues, the parents give the child rights that can no longer be withdrawn.¹⁵⁷

Morality is redefined in terms of rules and parameters that are said to be created in order to protect what is, generally speaking, in people's interest. It is a means of trying to control the general population from intentionally impeding the interests of others, where those interest lie. But it is not a blanket license to use whatever means possible to ensure that one's interests are safeguarded. It is not quite clear where Thomson or Overall believe rights originate from but it can be assumed that they hold that rights are conferred. If so,

¹⁵⁴"So my view is that even though you ought to let the violinist use your kidneys for the one hour he needs, we should not conclude that he has a right to do so—we should say that if you refuse, you are...self-centred and callous, indecent in fact, but not unjust." Thomson, "A Defense of Abortion," 61.

¹⁵⁵Overall, 84.

¹⁵⁶Thomson, "A Defense of Abortion," 65.

¹⁵⁷Ibid.

by whom? Are they conferred by nature? By fellow human beings? And if they are conferred can they be taken away?

In conclusion let us turn to Carol Gilligan. Gilligan claims that "[t]he essence of moral decision is the exercise of choice and the willingness to accept responsibility for that choice."¹⁵⁸ Her treatise on morality from a woman's perspective begins from the premise that moral decisions are only possible where choice is possible for where choice is taken away so is responsibility. Responsibility itself is crucial because it removes the decision from a self-centred perspective and allows both self and others to be taken into consideration. She wishes to draw a connection between moral decisions and social participation, between responsibility and community; "the shift from selfishness to responsibility, is a move toward social participation."¹⁵⁹

Gilligan implies throughout her work that true responsibility lies in a decision to abort. "Pregnancy itself confirms femininity, as Josie says...But the abortion decision becomes for her an opportunity for the adult exercise of responsible choice."¹⁶⁰ She states that only within the context of a right to abortion and contraception does a woman finally enter into the realm of truly moral decisions. If laws regulating abortion make it impossible to make moral choices with regard to abortion then couldn't the same be said about laws regarding murder or theft? Is the immorality of murder and theft somehow

¹⁵⁸Gilligan, 67.

¹⁵⁹Ibid., 79.

¹⁶⁰Ibid., 77.

diminished because there are laws prohibiting them? Does the absence of rights bind us to an amoral existence? And if the essence of moral decisions is choice, what kind of choice? What does responsibility mean in Gilligan's work? And if it is connected to social participation what about the possible responsibility to the foetus?

Gilligan concedes that violence is "destructive for everyone involved."¹⁶¹ Then what of the violent nature of abortion? Are there categories of human beings against whom violence is not destructive? There must be otherwise why accept abortion as, in some instances, a means of growth?

In Gilligan's discussion of morality the notion of responsibility is meant to include responsibility for self as well as others. She tells us "that the morality of rights differs from the morality of responsibility in its emphasis on separation rather than connection, in its consideration of the individual rather than the relationship as primary."¹⁶² Gilligan claims that "a morality of rights and noninterference may appear frightening...in its potential justification of indifference and unconcern."¹⁶³ A morality articulated through rights emphasises "a recognition of the rights of others as these are defined naturally or intrinsically [and] a human being's right to do as he pleases without interfering with somebody else's rights," whereas morality as responsibility is based on "a very strong sense of being responsible to the world." Moral decision making moves from the exercising of one's rights while keeping in mind the simultaneous

¹⁶¹Ibid., 174.

¹⁶²Ibid., 19.

¹⁶³Ibid., 22.

avoidance of interference in other's rights, to leading one's life in recognition of "obligations to myself and my family and people in general."¹⁶⁴

Why are we responsible to one another? What reason do we have not to hurt one another? Gilligan answers that "life is seen as dependent on relationships,"¹⁶⁵ and that "self and other are interdependent and that life, however valuable in itself, can only be sustained by care in relationships."¹⁶⁶ The responsibility that Gilligan articulates also includes an affirmation of sometimes having to destroy life as the best of all possible decisions, for responsibility should never include self-sacrifice.¹⁶⁷ Gilligan informs us that "the notion that virtue for women lies in self-sacrifice has complicated the course of women's development by pitting the moral issue of goodness against the adult question of responsibility and choice."¹⁶⁸ Gilligan again speaks of abortion as the truly responsible decision and pregnancy is what allows her subject to "illuminate her previous failure to take responsibility."¹⁶⁹ Taking responsibility here means not blaming others and focusing on what one believes to be the best choice for oneself and for those around us, all things considered. If that means sacrificing the life of the unborn, for his own good, as well as for the good of oneself, then the decision is morally right. The decision

¹⁶⁴Ibid., 21.

¹⁶⁵Ibid., 126.

¹⁶⁶Ibid., 127.

¹⁶⁷Ibid., 129.

¹⁶⁸Ibid., 132.

¹⁶⁹Ibid., 133.

maker is understood as the final measure for what is good and what is not. And though that measuring must take into account our interdependence, "we" alone decide to what extent our individual needs are to be subordinated to those with whom we interact.

In order properly to enact an ethic of care that has as its focus responsibility that itself "rests on the premise of non-violence—that no one should be hurt," there must also be present an ethic of justice, or rights, that "proceeds from the premise of equality—that everyone should be treated the same."¹⁷⁰ No one life should be treated as any more or less worthy of just consideration. But what of the responsibility to the life of the foetus? If the ethic of care rests on non-violence what of the violence in taking the life of the foetus? And if the ethic of justice rests on shared equality does not the life of the foetus merit consideration?

In discussions of abortion and its moral character one encounters discussions of such fundamental notions as: the personhood of the foetus; the moral status of the foetus; our responsibility to ourselves and to others. In contemporary analyses of moral action one is frequently confronted with such statements as: "killing is unacceptable because it violates one's right to life"; "stealing is unacceptable because it violates one's right to one's property"; "abortion is acceptable because it is the right of every person to regulate what will and will not be done to his or her body"; "abortion is unacceptable because it violates the foetus' right to life." The

¹⁷⁰Ibid., 174.

difficulty with such statements is that they often do not tell us why it is wrong to violate the rights of others. Often we find that the assumption is that all human beings have certain rights, normally outlined in a state's constitution, and it is morally wrong to violate said rights. But why should we pay heed to these rights?

It was argued in the previous chapter that to speak of morally right action is to speak of action which is good and which allows the actor to grow in his or her full potential as a human being. Morally right action must also take into account the human potential of fellow human beings and may not impede their growth and the fulfilment of that human potential. With this in mind the question is: can a morality which tolerates and/or advocates harm to another human life be rightly called morality?

CHAPTER THREE

THE MORAL IMPERMISSIBILITY OF ABORTION

In the preceding chapter arguments which attempt to justify the permissibility of abortion were outlined. This chapter will address some arguments which seek to justify the moral impermissibility of abortion. The authors being focused on are Germain Grisez, John Noonan, and Richard McCormick. There are several assumptions which underlie the position of these authors: one is that human life should be treated with dignity in all its stages; another is that the foetus, as a human being, must be treated with care and moral consideration; and finally that abortion in almost all cases, as the voluntary premature expulsion of human life from its life sustaining environment, is morally unacceptable.

I. THE LIFE OF THE FOETUS AS A LEGITIMATE CRITERION FOR MORAL CONSIDERATION

John Noonan has written primarily on the legality of abortion, which is not the focus of this thesis. However, in order to articulate a coherent argument as to the legality of abortion there must be some understanding, vague though it may sometimes be, as to the moral character of abortion. In the previous chapter the notion that the

foetus has a right to life is either dismissed as invalid, or is accepted with the caveat that its right to life cannot be seen as equal to the many other rights of the mother. Noonan's assertions about the moral character of abortion tend to be generated from the assumption that the foetus, as a human being, has a right to life and should be treated with the same consideration that is given to "more mature human life."

In Noonan's estimation there are two questions which are central to "any morality for man."¹⁷¹ One is the question as to what determines humanness and the second is the instance in which it might be lawful to kill.

Noonan argues that human beings throughout their history have gained a certain insight into themselves and through themselves into others. "Such is the insight into the connection between being human and being free."¹⁷² Once human beings understood that "the determination of their own potential humanity can be injured by the domination of others, they insist on their freedom of action and thought."¹⁷³ Indeed as was noted earlier moral action can only occur in so far as the individual actor has the freedom to act. However, it is unworkable to pursue freedom "as a single absolute" because one individual's maximum freedom must embrace the license to dispose of other individuals. Therefore any community which is devoted to "freedom as a human good must move dynamically toward a balance where freedom

¹⁷¹John Noonan, "An Absolute Value in History" in The Morality of Abortion (Cambridge, Massachusetts: Harvard University Press, 1970), 1.

¹⁷²Ibid., 2.

¹⁷³Ibid.

for one man is not achieved at the expense of freedom for another."¹⁷⁴

In the context of abortion the idea that a woman should not be forced to carry a child to term is founded on the notion that she is the master of her own body and no one can impinge upon her freedom to do with it as she pleases. But if all human beings are free, and freedom is to be considered a human good, then how is it that this freedom does not apply to the unborn? In the previous chapter Michael Tooley is said to argue that the unborn, and even the newborn, though human are not persons. Only persons are holders of rights and only the freedom of persons should be respected and protected. Those who conceded that the unborn does possess certain rights, argue that its rights are outweighed by the mother's rights. Hence we come back to the earlier questions: "what determines when a being is human? [and] when can human freedom be vindicated by killing other human beings?"¹⁷⁵

Noonan holds to the traditional Christian view that "if you are conceived by human parents, you are human."¹⁷⁶ In order to demonstrate the strength of this position Noonan contrasts it with contemporary inferences about human life and about when we are responsible to treat a being with the respect and dignity which is due her. First he

¹⁷⁴Ibid.

¹⁷⁵Ibid., 2.

¹⁷⁶Noonan examines the history of the Catholic stand on abortion. He starts with a look at the ancients and moves his way to what has become the present stand on abortion and more particularly the status of the unborn. He concedes that there have been times throughout the history of the church that abortion at the very early stages of fetal life was tolerated in some circumstances, but he also notes that even when tolerated it was warned that to abort even a potential human life was to be regarded with great reservation. Ibid., 3-52 passim.

addresses the argument according to viability.¹⁷⁷ That is the idea that until the foetus is able to survive outside its mother's womb, it is not yet fully human because in so far as it is completely dependent on the mother it is perceived to be part of the mother and not a distinct being.¹⁷⁸ One manner of refuting this argument is to note the great advances in neo-natal care. It is conceivable that there will be a time when it will be possible to remove a newly fertilized ovum and place it in an artificial womb for the duration of its earliest development.¹⁷⁹ Thus viability becomes far too erratic a standard. Noonan warns: "If viability were the norm, the standard would vary with race and with many individual circumstances."¹⁸⁰

Another objection to the viability argument is "that dependence is not ended by viability."¹⁸¹ Human beings are dependent on others throughout their lives. A newly born baby is dependent on her mother, doctors, nurses and those who ensure that she gets enough food, shelter, and love. A young child does not cease to be dependent on his or her parents nor does a grown man or woman. We are dependent on our employers to pay our wages so we can eat and be housed. We are dependent on law enforcement agencies to provide us with at least a minimal amount of security from those who would rob us of our lives

¹⁷⁷Ibid., 51.

¹⁷⁸Modern genetics will tell us that as soon as the ovum is fertilized a new and distinct being comes into existence with its very own genetic code. see Germain Grisez Abortion: the Myths, the Realities and the Arguments (New York: Corpus Books, 1972), 13-14.

¹⁷⁹Already the ability to save premature babies has moved from what was 24 weeks to 20 weeks.

¹⁸⁰Noonan, "An absolute value in History," 52.

¹⁸¹Ibid.

and/or possessions. It could be contested that the viability argument has more to do with the unborn's dependence on its mother because only she can provide the "environment" necessary for her survival. And to this Noonan states "an adult stripped naked and placed on the North Pole suddenly becomes nonviable. Analogously, a foetus ripped from his mother's womb suffers a sudden loss of viability."¹⁸² What Noonan is saying is that there may be a shift in dependence at viability, an "unsubstantial change", but this shift "does not seem to signify an special acquisition of humanity."¹⁸³

Next Noonan addresses the argument according to experience. This argument holds that one is truly human only once one is able to experience life. In other words someone who has lived, experienced the joys and sorrows of life, and who has memories of these experiences is a person, whereas a being who has not had such experiences is not yet a person.¹⁸⁴ It might be recalled that this argument was presented by Michael Tooley, wherein simple experience is not enough to characterize human personhood. Rather one must have moved to the point at which one is aware of oneself as a subject of experiences. Only then can it be said that personhood has been achieved. In either case experience is an important defining factor of humanness and in either case the foetus is held to be sorely lacking.

To the first level of experience Noonan asserts that the "embryo is responsive to touch after eight weeks, and at least at that point is

¹⁸²John T. Noonan Jr., "Raw Judicial Power," National Review 25 (1973): 262.

¹⁸³Idem, "An Absolute Value in History," 52.

¹⁸⁴Ibid.

experiencing. At an earlier stage the zygote is certainly alive and responding to its environment."¹⁸⁵ Although Noonan does not directly respond to the assertion that human personhood is only achieved once one is conscious of oneself as a self-conscious self, he does warn that attributing humanness to the ability to hold memories can result in a disregard for certain individuals' humanity. He states that there are cases of aphasia in which all memory is erased even the most fundamental memories of self-awareness.¹⁸⁶

A third distinction that Noonan addresses appeals to "the sentiments of adults" as a measure for the worth of the fetus.¹⁸⁷ The fetus is not worthy of consideration until that time at which the parents are able to feel his or her movements, or at that time when at his or her death the parents might actually grieve. Until at least the fourth month there would not be the same grief for the loss a the fetus nor can one feel his or her movements. Therefore, the fetus cannot be said to be worthy of consideration as a human person until the point at which the parents have experienced a physical sensation of his or her existence, or an emotional attachment.

To the above Noonan warns that not long ago, and still today, some people's feelings about those of different colour, religious faith, ethnic and cultural backgrounds, were not the same as feelings held for their own "kind". Yet it is agreed by most reasonable people that said feelings, or prejudices, were not and are not a justification for treating someone any less humanely than another. Did not the Nazi's

¹⁸⁵Ibid., 53.

¹⁸⁶Ibid.

¹⁸⁷Ibid.

claim that their victims, Jews, Gypsies and the handicapped, were less human than Germans?

Finally the notion of sociability and social recognition has been invoked in order to dismiss the humanness of the foetus. An important part of being human is being able to interact with others. Morality assumes that each individual's actions have implications for the individual and his or her neighbour. Therefore "excluded from the society of men, the foetus is excluded from the humanity of men."¹⁸⁸ Because the foetus cannot interact, and consequently is not a moral agent, he or she cannot be considered fully human and need not be treated with the same considerations that is due fully human beings.

Noonan responds to this by arguing that "if humanity depends on social recognition, individuals or whole groups may be dehumanized by being denied any status in their society."¹⁸⁹ The hermit is as human as the social butterfly. Hence, "humanity does not depend on social recognition, though often the failure of society to recognize the prisoner, the alien, the heterodox as human has led to the destruction of human beings."¹⁹⁰

From the above Noonan concludes that

the positive argument for conception as the decisive moment of humanization is that at conception the new being receives the genetic code. It is this genetic information which determines his characteristics, which is the biological carrier of the possibility of human wisdom, which makes him a self-evolving being.

¹⁸⁸Ibid., 54.

¹⁸⁹Ibid.

¹⁹⁰Ibid.

A being with a human genetic code is a man.¹⁹¹

Resolving the inviolability of the fetus, according to Noonan, allows us to recognize that the fetus is a possessor of rights in the same manner that other human beings are possessors of rights, and as such he or she may not be eliminated at the whim of another. To say this is not to deny that there are circumstances in which two lives come into conflict and only one can be saved. But in the same way that extra-uterine life should not be taken except in situations of self-defense, nor should intra-uterine life. According to Noonan to say that all human beings possess rights is synonymous to asserting, in a Christian sense, that all human beings including the fetus are deserving of love. In humanistic terms it may be understood as "do not injure your fellow man without reason."¹⁹² In this context abortion is never to be permitted except in self-defense.

Noonan's aim, in part, is to provide reasons as to why the fetus should be understood as possessing human life. And though he presents a compelling argument for the fetus' right to life, one is left with the question: how does a right to life argument provide a justification for the moral impermissibility of abortion? What is it about human life that makes it impermissible to directly and voluntarily take it, in all but the most extreme cases? Certainly it must be more than the existence of one's right to life that make this the case?

¹⁹¹Ibid., 57.

¹⁹²Ibid., 58.

II. ABORTION AS AN UNDERMINING OF A BASIC GOOD

Germain Grisez starts his discussion of the ethical character of abortion by outlining why abortion is an act which is morally relevant. His position is that abortion is an act which must be seen as morally wrong because it is the intentional and direct taking of a human life. He contends that it is wrong to pretend that the foetus is anything but a human person worthy of our respect. The foetus may not have the same capacities to be aware of her experiences, to reflect, and to articulate but this does not constitute sufficient criteria for dismissing her personhood. Grisez states:

The potentiality of the human embryo is not simply for what it will become, but also for what it is. Human life is complete in its whole biography, and the whole meaning of what is earlier cannot be reduced to what comes later. The typical human adult is different from the baby, but not necessarily better, and the fullness of human life cannot be found in either the one condition or the other, but only in all the potentialities and fulfilments that constitute the process from the womb to the tomb.¹⁹³

In asserting this Grisez is countering the notion that potential personhood should be distinguished from actual personhood. Arguing that a human being only achieves personhood once he or she has developed certain traits that are deemed characteristic of persons is making arbitrary assertions about the parameters of personhood.

He asks should we treat all living human individuals as persons, or should we accept a concept of person that will exclude some who are in fact human, alive, and individuals, but who do not meet certain additional criteria we

¹⁹³ Germain Grisez, Abortion: The Myths, the Realities, and the Arguments (New York: Corpus Books, 1970), 286.

incorporate in the idea of 'person.'¹⁹⁴

For example, Grisez warns that some criteria for personhood, "freedom, self-determination, rationality, the ability to choose either means or ends, and knowledge of its circumstances,"¹⁹⁵ not only excludes the foetus but it also excludes newly born infants, the gravely retarded, the insane, someone in a coma or sound asleep. Furthermore, these criteria leave the door open for the moral permissibility of euthanasia because in the cases stated above the individuals who have the misfortune of losing the appropriate person-granting qualities have "passed into a submoral state, outside the forum of conscience and beyond moral being."¹⁹⁶

According to Grisez "the factual question has long since been settled by biology: a new human life begins at conception."¹⁹⁷ He states, "the sperm and the ovum, prior to fertilization, obviously can be considered as belonging to those from whom they derive. But once conception occurs a cell exists which cannot be identified with either parent."¹⁹⁸ Here there is a distinction between the unity of the fertilized ovum and the duality of the ovum alone and the sperm alone.¹⁹⁹ For whereas the unity of the fertilized ovum "is continuous with that which develops from it," that is the fertilized ovum is

¹⁹⁴Grisez, Abortion, 273.

¹⁹⁵These criteria are similar to those outlined by Tooley in the previous chapter.

¹⁹⁶As cited from Joseph Fletcher, Morals and Medicine (Boston: Beacon Press, 1954), 201.

¹⁹⁷Grisez, Abortion, 284.

¹⁹⁸Ibid., 274.

¹⁹⁹Ibid., 13-22 passim.

continuous with itself as it moves in becoming who it is, the duality of the "sperm and the ovum is continuous with the duality of the two parents."²⁰⁰ Grisez claims that though biological fact is not enough to provide a sound philosophical argument as to the personhood of the foetus it is a factor in so far as it can enlighten us as to when, biologically speaking, individual human life begins.²⁰¹

Grisez also rejects the argument that the personhood of the foetus only becomes apparent once the foetus has become "functionally human" which occurs after it has "been humanized in the human socialization process."²⁰² This manner of explaining humanness assumes that "human development is like the construction of an automobile, [that] becomes an automobile only at the end of the production line when someone can actually drive it."²⁰³ Human beings possess a variety of potentialities that exist from the moment of conception, some of which might go un-actualized within one lifetime. Grisez sees human sociability not as a "passive reception by inert material," but active participation.²⁰⁴ Human sociability does not happen to us, rather we actualize it in our constant interaction with others from the beginning of life to its end.

Finally Grisez argues that the fulfilment of our life potential

²⁰⁰Ibid.

²⁰¹Ibid., 274.

²⁰²Ibid., 277.

²⁰³Ibid., 278.

²⁰⁴"The individual himself is an active participant in the process, and although the ratio of passivity to activity is greater the younger one is, it is hard to see how socialization could ever begin at all if the one being socialized did not somehow actively participate even at the outset." Ibid., 279.

occurs through "self-actuation," and not by some "extrinsic agent bringing together already existing components."²⁰⁵ Humanization occurs as a process of "give and take which has already begun when the embryo's effect upon the mother causes her to miss her menstrual period and learn of her new status."²⁰⁶

If we do decide that all living human individuals are persons, from conception to death, then it must also be conceded that the foetus is as much a subject of rights as an adult person, because "generally the person is considered a subject of rights, and once it is admitted that a person exists there will be a very broad consensus that he has at least a prima facie right to continued life, since this right is more fundamental than any other."²⁰⁷ In considering life as a more fundamental right than any other one is implicitly ruling out the argument that a woman has a right to autonomy over her own body as a justification for abortion. In Grisez' words "if this is true the foetus' right to life obviously is more important than the woman's right to dispose of her own reproductive capacity."²⁰⁸ Grisez suggests there is no right that supersedes a person's right to life. He further explains that "an obligation on a pregnant woman to forego abortion no more infringes on her rights than an obligation to forego infanticide infringes on parental rights."²⁰⁹

Rights do not come without obligations and obligations are not

²⁰⁵Ibid.

²⁰⁶Ibid.

²⁰⁷Ibid., 273.

²⁰⁸Ibid., 287.

²⁰⁹Ibid.

simply necessary requisites which force us to recognize that others have interests, similar to ours, which must be protected from those who would try and infringe upon them. Grisez states

We have responsibilities to those who are dependent on us, and we can hardly claim a right to kill merely to free ourselves of the burden of putting up with and caring for our dependents. If they are *ours*, they are not ours to dispose of as we will; that is the difference between our property and our relatives. The former is an extension of ourselves, but the latter, being other persons, have some importance in themselves.²¹⁰

Is Grisez stating that the immorality of abortion is judged based on the personhood and right to continued existence of the foetus? Or is he using the term rights as a means to articulate our moral obligations?

In order to answer the above we must turn to Grisez' discussion of morality. First he states that the beginning of every moral act is freedom,

for whether or not we act to realize any particular possibility is a matter of our own choice. And where there is no choice, there is no morality, no question of right and wrong. We do not hold animals and infants responsible in the moral sense, because we do not see evidence of deliberation and self-determination.²¹¹

But freedom has several meanings. Freedom can mean "a lack of physical constraints;" it might mean "the absence of external social pressures and demands;" or "it can signify that state in which an individual is able to create his own [moral] life—and, in a real sense, his own

²¹⁰Ibid.

²¹¹Ibid., 310.

self—through his choices."²¹²

Of all of these different meanings of freedom the one which is most relevant to moral action is the freedom to make one's own choices. In the words of Grisez; "The freedom to determine oneself by one's own choices is the freedom most proper to a human being. It is the freedom with which ethics is most concerned."²¹³ Grisez refers to the above stated freedom as "self-determination."²¹⁴ It is distinguished from the "ability to do as we choose (liberty)" and from the "independence of judging what we should do (autonomy)."²¹⁵ Self-determination is the conceiving and making of our own lives and selves through our own choices.²¹⁶ Self-determination implies that even taking into account external influences which can and do influence our choices "we retain at least some options of choosing or not choosing, of choosing one thing rather than another."²¹⁷ If there is no free choice to act then one's action cannot be said to be a moral act nor an immoral act. For example, a truck is coming straight at you and you instinctively jump out of the way. Here you are not acting either morally or immorally. But if in the same situation, having already decided that life is no longer worth living, you do not move, that is you choose to allow the truck to hit you, then your action has a moral character.

²¹² Germain Grisez and Russell Shaw, Beyond the New Morality: The Responsibilities of Freedom (Notre Dame, Indiana: University of Notre Dame Press, 1974), 1.

²¹³ Ibid.

²¹⁴ Ibid., 6; idem, Abortion, 309.

²¹⁵ Ibid., 309.

²¹⁶ Idem, Beyond the New Morality, 6.

²¹⁷ Ibid.

The moral character of an act is determined by a will or choice to act but also by the end to which that act is aimed. Grisez tells us; "*that we act depends on our choice alone; what our act is, depends on our understanding of what we are doing, of what good gives meaning to our action.*"²¹⁸ Meaning can be found in all human actions. For example, an action that occurs at the level of physical freedom derives its meaning in the consummation of the action. An action that occur as a result of our freedom to do as we please (resulting from our autonomy) derives its meaning from the particular goal which the action is meant to achieve. But action that is self-determining derives its meaning

from a good in which one participates by performing the action...it comes from a purpose in which one participates precisely through performing the action. This purpose does not come at the end of or sometime after the action. Instead, it is present in the performance all along, at every stage. In this kind of action one realizes a good by participating in it.²¹⁹

Grisez distinguishes between what he refers to as INSTRUMENTAL GOODS and BASIC GOODS. Instrumental goods are those goods which "need further reason to explain the interest people take in them."²²⁰ But there are also actions which "need no further reason; these are goods,

²¹⁸Ibid.

²¹⁹Ibid., 7.

²²⁰"For example, as a reason for acting, winning a prize needs a further reason which motivates one to win. The further reason why one is interested in some further purpose, such as using the prize, showing that one has the necessary capabilities, and so on." Germain Grisez, Joseph Boyle, and John Finnis, "Practical Principles, Moral Truth, and Ultimate Ends" The American Journal of Jurisprudence 32 (1987): 103.

one or more of which underlie any purpose."²²¹ These goods are basic goods. How might we uncover which goods are basic and which are instrumental? Grisez claims that the most direct way of disclosing basic goods is "by considering actions and asking, 'Why are you doing that?' and 'Why should we do that?'"²²² These questions uncover a diversity of answers which for Grisez are "neither a mere contingent fact about human psychology nor an accident of history."²²³ Basic goods are aspects of human fulfillment which "correspond to the inherent complexities of human nature, as it is manifested both in individuals and in various forms of community."²²⁴ In other words there exist goods for human beings which are intrinsic to human fulfillment.²²⁵

Grisez lists what he refers to as fundamental basic goods,²²⁶

²²¹"One does finish deliberating and begin acting, and there cannot be an infinite regress in the goods which are reasons for acting." Ibid.

²²²Ibid., 107.

²²³Ibid.

²²⁴Ibid.

²²⁵"Theoretical studies of human persons, including empirical psychology and philosophical anthropology, uncover the natural inclinations. Some of these theories—for example, Freudian psychology, structuralist anthropology, behaviorism, dualistic philosophies of the person—are very inadequate. But the body of material taken as a whole testifies to natural inclinations to stay alive and healthy, to know, to do good work and to play, to get along with others, to be at peace with reality, and to get oneself together. Accepting the list of basic goods is supported by the data; rejecting it is *at odds with the data...*" Ibid., 113.

²²⁶1) Life itself, physical and mental health and safety.
 2) Activities engaged in for their own sake including those which also serve an ulterior purpose.
 3) Experiences sought for their own sake.
 4) Knowledge pursued for its own sake.
 5) Interior integrity—harmony or peace among the various components of the self.
 6) Genuineness—conformity between one's inner self and his outward

but for the purpose of this discussion it will suffice to note that "any list of basic human goods would have to include life itself."²²⁷ Without life there can be no other goods to be sought. But each good is good not simply because of its individual intrinsic value but because it is connected to human fulfillment. "No single good, nothing that can be embraced in the object of any single choice, is sufficient to exhaust human good, to fulfil all of the possibilities open before man."²²⁸ There is a unity of basic goods and no one good should be sacrificed in order to achieve another good, otherwise the first good is reduced to an instrumental good.²²⁹

Human beings are conscious of basic goods both by experience, that is an awareness of "our own inclinations and of what satisfies them,"²³⁰ as well as by an ability to understand. Understanding allows us to "grasp in our inclinations the possibilities toward which they point." This Grisez calls theoretical reason. But understanding does not simply observe and conclude what might move us to action, also it is practical as it proposes "possibilities as goals toward which we

behaviour.

7) Justice and friendship—peace and cooperation among men.

8) Worship and holiness—the reconciliation of mankind to God.

Grisez, Abortion, 313; Grisez, Boyle and Finnis, "Practical Principles, Moral Truth, and Ultimate Ends," 107–8.

²²⁷Grisez, Boyle and Finnis, 108.

²²⁸Grisez, Abortion, 315.

²²⁹Does this mean a woman should not be saved if saving her life would mean the death of her unborn child? Grisez addresses this issue in his discussion of the principle of double effect which will be elaborated in the following pages.

²³⁰Grisez, Abortion, 313.

might act."²³¹ This form of understanding Grisez refers to as practical reason. Practical reason informs us of what we ought to do, but it is not the same ought of moral obligation. Practical reason, says Grisez, "controls the whole area of free action by shaping it from within, rather than imposing rules from without."²³² Moral obligation, in so far as it is a form of ought, is part of what informs practical reason, "it is an inner requirement of practical reason." There are things we ought to do because it is non sensical to do otherwise. For example we ought to put our socks on before our shoes. But we are not morally obliged to do so. Whereas there are other oughts such as, we ought to refrain from intentionally taking a human life, that are moral obligations. Our understanding of such basic goods as life, knowledge, and health allow us to recognize that we have an obligation not to act against them. Basic goods are in this sense ideals which in their realization allow man to go beyond what he "already is toward that which he is not yet but still may be."²³³

Grisez tells us that basic human goods illuminate our choices but they "cannot determine themselves why some choices are morally good and others morally evil."²³⁴ What it is then that distinguishes between moral good and moral evil. Grisez answers that "moral good and moral

²³¹We understand, prior to any choice or reasoning effort, that the basic human goods are possible purposes for our action. To the extent that any action requires some purpose, the basic goods present themselves as purposes to-be-realized, not merely as objective possibilities. We understand the preservation of our own lives, the pursuit of knowledge, the cultivation of friendship and the rest as goods-to-be-sought by us. Ibid., 314.

²³²Ibid.

²³³Ibid.

²³⁴Ibid., 315.

evil depend upon the attitude with which we choose."²³⁵ This is not to say that any choice that is made with the right attitude is morally good, for as Grisez points out there are "some choices [that] cannot be made with the right attitude."²³⁶ The right attitude, for Grisez, must conform fully with reality. He argues that "to choose a particular good with an appreciation of its genuine but limited possibility and its objectively human character is to choose it with an attitude of realism."²³⁷ We do not measure one good relative to another, for that would be to elevate one good above the other. But we may choose one particular good and in the process, unwillingly undermine another.²³⁸ Basic goods must be understood as "diverse participation in a unity beyond all of them," or otherwise "be unified by reference to one another."²³⁹ For one good to be a reference for the meaning of another good risks intentionally undermining one good for the sake of another. "However if we accept the reference of our conception of goodness to a reality we do not yet understand, our openness to that goodness may count as love of it, although it is not an intelligible objective of any particular action."²⁴⁰ In religious terms we might understand this

²³⁵Ibid.

²³⁶For example, one might think that killing someone who is suffering is the kindest thing to do, and one's intentions might be most genuinely to provide comfort and caring for this person, yet all the good intentions in the world cannot nullify the immorality of the act of taking that persons life. Ibid.

²³⁷Ibid.

²³⁸Ibid.

²³⁹Ibid., 317.

²⁴⁰Ibid.

as a love of God.²⁴¹

A morally right attitude, then, attempts to take into consideration all basic goods without intentionally subverting one for the sake of another and recognizes that basic goods are goods in so far as they are good in and of themselves as well as participating in a greater Good. "A right attitude does not seek to subvert some principles of practical reason by an appeal to others."²⁴² The next question that comes to mind, says Grisez, is "how a morally right attitude can shape itself into specific obligations,"²⁴³ and actions.

If we return to Grisez' initial premise, that we determine ourselves as human beings through our actions, and keep in mind what has been discussed in relation to basic goods for man, one might conclude that by acting on a basic human good, while not willingly or intentionally undermining any of the other basic human goods, one is acting morally.

Being able to recognize basic goods does not guaranty one's ability to act with them in mind. Grisez says,

Ideally, the moral discernment of specific moral obligations would require neither calculation nor even reflection. If one's moral attitude were right and his whole personality were perfectly integrated with that moral attitude, then his own sense of appropriateness, his own spontaneous judgements, would be the surest index of moral good and evil...However when we have a moral question, obviously our moral sensibility has failed us. At this point it is useless to say: 'Act by your own right will,' because the question would never have arisen but for the

²⁴¹And if the goodness in question is identified with God, respect and openness to all human goods may be interpreted as man's fulfillment by participation in a good which first belongs to God. Ibid.

²⁴²Ibid., 316.

²⁴³Ibid., 317.

conflict within ourselves.²⁴⁴

Grisez has adopted an Aristotelian notion of moral action, in so far as he recognizes that it is not enough to know what is right or wrong but one must be habituated toward acting in such a way that the action achieves what is immediately as well as ultimately good.

Having the right moral attitude means having a truly realistic awareness of human goods. Such an attitude would prompt us always to act with human goods in mind and never act directly in opposition to any basic good. As Grisez warns, "to act against a basic good is to subordinate that good to whatever leads us to choose such a course of action."²⁴⁵ In doing so "we treat an end as if it were a means; we treat an aspect of the person as if it were an object of measurable and calculable worth."²⁴⁶ Grisez suggests that it is possible to interfere with a basic good while seeking to fulfil another basic good, as it is "one thing for inhibition or interference with other goods to occur as unsought but unavoidable side-effects of an effort to pursue a good, and it is quite another thing directly to choose to inhibit or destroy a realization of a basic human good."²⁴⁷ Within the context of morality which Grisez presents the former would not be considered an immoral action whereas the latter would be.

Here we will turn to Grisez' conclusions about the moral character of abortion. It may be recalled that Grisez notes that if we do not agree on what specifically are the basic goods we must at least

²⁴⁴Ibid.

²⁴⁵Ibid., 319.

²⁴⁶Ibid.

²⁴⁷Ibid.

agree that the preservation of human life is such a good, for without life no other human good is possible. Grisez asserts,

human life is a basic good and it is intrinsic to the person, not extrinsic as property is. To choose directly to destroy a human life is to turn against this fundamental human good. We can make such a choice only by regarding life as a measurable value, one that can be compared to other values and calculable to be of less worth. To attempt such a rationalization is to reduce an end to the status of mere means. Whatever good is achieved by such a means could not have been chosen except by a pretence that the good of the life which is destroyed is not really an irreplaceable human possibility. Undoubtedly, it is for this reason that those who seek to justify abortion and other direct attacks on human life strive to deny the humanity and/or personality of the intended victims.²⁴⁸

In Grisez' estimation a foetus is a human person whose goods are to be respected and cherished as any extra-uterine person. Hence it must be concluded that abortion, in most instances, is an immoral act in so far as it is the killing of a human person, and therefore a direct assault on a basic good.

According to Grisez there are some circumstances under which interfering with a good is not morally wrong. As was mentioned above he argues that there are situations in which, while trying to safeguard and promote one good, another good may be harmed unintentionally. This is, however, quite different from the intentional interference with one good to promote another. He warns us that "we must maintain that the end which rationalizes the means cannot justify the means when the means in question involves turning against a good equally basic, equally an end, equally a principle of rational action as the good

²⁴⁸Ibid., 320.

consequence sought to be achieved."²⁴⁹ Despite one's intentions to seek to prevent suffering and promote a basic good, to undermine an equally basic good to accomplish the promotion of another is to use a basic good as a means. This in turn potentially subverts all goods because at one point or another one may find reason to undermine any single basic good or all.

For Grisez intention behind an action and the action itself are inseparable with regard to morality. To act evilly while intending to promote a good cannot be deemed morally permissible. On the other hand if the evil that occurs is not directly a result of an act that serves to promote a basic good then the end is regarded as an evil but not the act. Grisez explains,

there is an important distinction to be made among operations done on pregnant women that result in the death of the unborn. Some kill the unborn individual as a means to an ulterior end; others directly result in a benefit to the mother's health and only incidentally kill the unborn child.²⁵⁰

He goes on to explain that if a woman decides that she does not want her baby for reasons of financial constraints, interference with her career, embarrassment, the ultimatum of her spouse or boyfriend, or any other reason, and she proceeds to get rid of the unwanted pregnancy, "then this is killing as a means to an end. Such action goes directly against the fundamental good of human life itself and is morally wrong for that reason."²⁵¹

If, however, a woman is in a life threatening situation, for

²⁴⁹Ibid., 319.

²⁵⁰Idem, Beyond the New Morality, 143.

²⁵¹Ibid.

example she has a cancerous uterus that must be removed, it is morally acceptable to perform the procedure necessary that may result in the death of the unborn child who has not matured enough to survive outside the mother's body. Grisez states that "this procedure is not properly called an abortion, nor need it be regarded as morally wrong."²⁵² Here Grisez places an emphasis on the intention of the act. The intent in the above case is to save the life of the mother and the death of the child is incidental, albeit unfortunate. One might argue, as Thompson and Overall do, that in most instances the intent behind abortion is to cease being pregnant and not the killing of the offspring. The death of the offspring is unfortunate, but until technology advances enough so as to be able to preserve the life of the unborn upon removal from the uterus, it is an ill-fated side effect not an intended end.

When Grisez speaks of intention he "means to foresee, more even than willing a cause. To intend something is either to aim at it as at one's precise purpose in acting or to embrace it for its positive contribution to the achievement of that purpose."²⁵³ He further argues that we do not intend side effects. For example in although a dentist he knows that the procedures he performs are painful they are not done for the purpose of causing pain. In the case of those life saving procedures performed on the mother which result in the death of the unborn, they are done to save the life of the mother not to kill the unborn. Though "we bring them upon", that is the evil results, "we do not intend them."²⁵⁴ Grisez's notion of intent is distinct from

²⁵²Ibid., 144.

²⁵³Idem, Abortion, 327.

²⁵⁴Ibid., 328.

Thomson's and Overall's in that for Grisez what must be at stake is a basic good whereas with Thomson and Overall a basic good is being undermined for the sake of convenience.

Also included in Grisez's assertions on the moral character of abortion is a reinterpretation of the principle of double effect. He explains that "one may perform an act having two effects, one good and the other bad, if four conditions are fulfilled simultaneously."²⁵⁵ Briefly those conditions are: the act may not be wrong in itself; the intent of the actor must be right; the evil effect may not be a means to the good end; and there must be a proportionately grave reason for performing the act.²⁵⁶ Hence if a woman is suffering from cervical cancer and the operation performed to save her life requires the removal of her uterus, that is housing her child, the act is not morally wrong because the four above stated conditions are present. The act is not wrong in itself for it is not wrong to remove an unhealthy organ; the intent is not to kill but rather to save a life; the evil effect is not a means to saving the life of the mother but an unfortunate result of the means which is the removal of the uterus; the reason is proportionately grave in so far as the mother's life is at

²⁵⁵"1) The act must be wrong in itself, even apart from consideration of the bad effects. (Thus one does not use the principle to deal with the good and bad effects of an act that is admittedly murder.)
 2) The agent's intention must be right. (Thus if one aims precisely at death, the deadly deed cannot be justified by the principle.)
 3) The evil effect must not be the means to the good effect, for then evil will fall within the scope of one's intention, and evil may not be intended even for the sake of an ulterior good purpose. (Thus it is certainly wrong to kill someone in order to inherit his wealth.)
 4) There must be a proportionately grave reason for doing such an act, since there is a general obligation to avoid evil so far as possible. (Thus one may not use poison deadly to children to kill rodents in a public park.)" Ibid., 329.

²⁵⁶Ibid.

risk.

Grisez believes, however, that "the principle of double effect in its modern formulation is too restrictive insofar as it demands that even in the order of physical causality the evil aspect of the act not precede the good."²⁵⁷ The above stated theory provides for a justification of the death of the unborn in cases of ectopic pregnancies or cancer but in situations where carrying the unborn child to term will kill the mother by placing excessive pressure on her heart or kidneys the act of removing the child would be seen as an immoral act. Grisez attempts to correct what he believes to be a problematic aspect of the modern formulation of the principle of double effect. He argues that "the behavioural aspect of the act is not morally determinate apart from the meaning that shapes the human act."²⁵⁸ If an act has both a good and bad aspect the bad aspect could not fall within the realm of intention.²⁵⁹

In those instances where the only way to save the life of the mother is to remove the foetus from the mothers womb thereby killing the foetus the act is not abortion per se. He argues that the intention

²⁵⁷Ibid., 333.

²⁵⁸Ibid.

²⁵⁹"From the point of view of human moral activity, the initiation of an indivisible process through one's own causality renders all that is involved in that process equally immediate. So long as no other human act intervenes or could intervene, the meaning (intention) of the behaviour which initiates such a process no less immediate to what is, from the point of view of physical causality, a proximate effect or a secondary or remote consequence. For on the hypothesis that no other human act intervenes or could intervene, the moral agent who posits a natural cause simultaneously (morally speaking) posits its foreseen effects. The fact that not everything in the behaviour is relevant to the diverse physical dispositions of the elements of the behavioural aspect of the act, but from the diverse dispositions of the agent's intention with regard to the intelligible aspects of the act." Ibid.

is not the death of the offspring but the saving of the mother. In instances where the mother could otherwise sustain the pregnancy and does not want to undergo the nine months of strain on her body, finances and life, so she has the child removed from her uterus thereby killing it, the act is indeed abortion and is morally wrong. In one case the act is to preserve a basic good, in the other it is a subordination of a basic good to a desire or convenience. Short of a threat of death Grisez sees no justification for abortion as a morally permissible act. "One does not sacrifice life for health since the latter is only a partial aspect of the former."²⁶⁰

Finally, although he has great sympathy for women who do not wish to carry to term a child of rape or incest he asserts that abortion in such a case would no more be morally right than in the above situation of convenience. He states

the victim of rape has been violated and has a good reason to resent it. Yet the unborn infant is not the attacker. It is hers as much as his. She does not wish to bear it—an understandable emotional reaction. But really at stake is only such trouble, risk and inconvenience as is attendant on any pregnancy. To kill the baby for the sake of such goods reveals an attitude toward human life that is not in keeping with its inherently immeasurable dignity. One of the simple modes of obligations is violated—that which requires us to do good to another when we can, and there is no serious reason not to do it.²⁶¹

His conclusion is that it is fitting and correct to assert that abortion is murder in those cases where it is a direct attack on human life. "To reject this classification of the act is itself a merely

²⁶⁰Ibid., 341.

²⁶¹Ibid., 343.

emotional reaction, an attempt to sanctify evil by removing its bad name."²⁶²

III. MORALITY, ABORTION AND COMMUNITY

Richard McCormick, like Grisez, believes that human life is a basic good. As such it is "the condition of all other experiences and achievements"²⁶³ and "the foundation for the enjoyment of other goods and rights [and] should be taken only when doing so is the lesser of two evils, all things considered."²⁶⁴ Grisez argues that though health and psychological well being are goods they are not goods that supersede the basic good that is life.²⁶⁵ McCormick asserts that in order for an action "to qualify as a lesser of two evils there is required, among other things, that there be at stake a human life or its moral equivalent."²⁶⁶ By a moral equivalent McCormick means "a good or value that is, in Christian assessment, comparable to life itself."²⁶⁷

McCormick confesses to espousing what he refers to as "the classical Christian moral position."²⁶⁸ There are three statements which he uses to expand this position and they are as follows. First, he argues that "human life as a basic gift and good, the foundation for

²⁶²Ibid., 345.

²⁶³Richard McCormick, "Abortion: A Middle Ground?," Second Opinion 10 (March 1989): 43.

²⁶⁴Idem, How Brave a New World?, 168.

²⁶⁵Grisez, Abortion, 343.

²⁶⁶McCormick, How Brave a New World, 168.

²⁶⁷Ibid., 168.

²⁶⁸Ibid., 194.

the enjoyment of all other goods, may be taken only when doing so is the only life saving and life serving alternative, or only when doing so is, all things considered (not just numbers), the lesser evil." He explains that he uses the term human life rather than person because the term person tends to "muddy the moral discussion."

In McCormick's estimation the argument around the personhood of the foetus is not appropriate because "the definition of person is often elaborated with a purpose in mind. One defines personhood and then grants or does not grant personhood according to what one wants to do or thinks it acceptable to do with non persons."²⁶⁹ It is this circularity in the definitions of personhood which makes them inappropriate foundations for a conclusion as to the moral character of abortion. McCormick asserts that personhood is nothing more than "a code word for a self transcending, trans-empirical reality."²⁷⁰ He further claims that self-transcendence is not a part of an organism [but] it is the organism as oriented to its self-transcending matrix."²⁷¹

McCormick then addresses the life-saving and life-serving natures of an act and states that though an act is life-saving it may not be life-serving. Consider the following scenario. Four people are trapped in a life raft in the middle of the ocean with only enough food and water to keep three of the four people alive. Some might argue that the solution would be to throw one person overboard. After all it is better to lose one life and save three than to lose all four. Although one may

²⁶⁹Ibid., 191

²⁷⁰Ibid., 194.

²⁷¹Ibid.

be helping to prolong three lives one is also undermining the good that is another human being and this would not be life-serving.²⁷² On the other hand McCormick does see circumstances in which the giving up of a human life can be both life-saving and life-serving. If, going back to our four stranded sailors, one chose to give his life to save his companions his act would be considered both life saving and life serving. Life saving because lives are saved from death, and life serving because part of fulfilling a truly human²⁷³ life is being willing to give up what is most precious to oneself for the good of others.

Second, by human life McCormick is referring to "human life from conception or at least from the time at or after which it is settled whether there will be one or two human beings."²⁷⁴ Though there is much doubt and argument as to the humanity of the foetus at his/her earliest stage, McCormick warns that doubt is not conclusion. He states "there are phenomena in the pre-implantation period that generate evaluative doubts about the claims the foetus at this stage makes, at least in some cases."²⁷⁵ Here he refers to twinning, the number of spontaneous abortions, chimeras (the possible recombination of two fertilized ova into one). These incidents, however, "create problems—doubts only."²⁷⁶ When the first test tube baby was born the language

²⁷²This argument about using human beings as means to an end is utilitarian in origin and has been discussed in previous pages of this chapter.

²⁷³and Christian

²⁷⁴McCormick, How Brave A New World?, 194.

²⁷⁵Ibid.

²⁷⁶Ibid.

was specific, she was called a test tube baby not a test tube tissue. McCormick argues that "the answer to the question 'where did Louise Brown begin?' is clearly: In the petri dish, if baby means anything."²⁷⁷ Life for Louis Brown began in the petri dish where ovum met sperm.

Third, in order for a life-saving and life-serving act to be considered the lesser of two evils, all things considered, "there must be at stake human life or its moral equivalent, a good or value comparable to life itself."²⁷⁸ By moral equivalent of a human life McCormick refers "to a good or value that is, in Christian assessment, comparable to life itself."²⁷⁹ Any assessment of a good or value that is comparable to life itself must be "interpreted in a way consistent with our assessment of the values justifying the taking of extrauterine life."²⁸⁰ In other words, like the life of adults, teenagers, children and infants, nascent life places certain moral claims on us.

A classical Christian moral position accepts that the taking of a human life is morally acceptable under certain circumstances. For example in the cases of just war and self-defence. McCormick attempts to point out that though human life is a basic good we sometimes risk our lives for the sake of other, sometimes lesser, goods. "For instance if human beings may go to war and take human life to defend their freedom (political autonomy) against an enemy who would strip them of

²⁷⁷Ibid., 195.

²⁷⁸Ibid.

²⁷⁹Ibid., 168.

²⁸⁰Ibid., 149.

it, something is being said about human freedom compared with life."²⁸¹ McCormick goes on to state that he is familiar with cases in which the "failure to terminate a pregnancy has resulted in the permanent loss of freedom for the mother (insanity)."²⁸² Should one assume that a risk to mental health is a justification for abortion in certain circumstances? Are there just reasons to subordinate a basic good to another, perhaps less basic, good? McCormick reminds us

We die for our freedom, do we not? Give me liberty or give me death, resonates with all of us, though there are still some who would rather be 'red than dead'—but, I suspect, because they think they will really have their liberty after all.²⁸³

As has been demonstrated McCormick believes that there exists circumstances in which it is permissible to take human life. But these circumstances must meet certain conditions.²⁸⁴ He is arguing that in everyday life we make choices about goods which theoretically are incommensurable. He states "I realize that life and liberty cannot be compared, as apples and oranges cannot. But in daily life we somehow manage to parse this incommensurability in many areas."²⁸⁵ For example, we choose to have a dangerous operation while knowing that though it may prolong our life it could as easily extinguish it. McCormick is thus concluding that although life is a basic human good it is not an absolute good which is to be preserved at "any" cost.

²⁸¹ Ibid., 195.

²⁸² Ibid.

²⁸³ Ibid., 196.

²⁸⁴ see pages 103-106 of this chapter.

²⁸⁵ McCormick, How Brave a New World?, 195.

In reflecting on McCormick's writings on abortion one observes that his conclusions as to the moral character of abortion emerge from conclusions as to the moral character of taking human life. What, then, is it about human beings that, for McCormick, makes it immoral to take human life, outside the above mentioned conditions, at any stage? First, McCormick shares a Christian interpretation of human nature. That is McCormick believes that human life and human happiness must be understood in terms of a temporal and an eternal reality.²⁸⁶ He tells us that a Christian morality is informed by a tradition which sees human beings as "in relationship with God."²⁸⁷ Human beings are to be treated with a dignity that transcends their real or perceived utility and quantitative value. Human dignity arises out of the relationship of human beings to God. McCormick cites Helmut Thielicke who tells us that man's own worth, that is his "value for producing goods, his functional proficiency, pragmatic utility," does not give him his dignity, it is "rather what God has spent upon him, the sacrificial love which God has invested in him."²⁸⁸ This dignity Thielicke refers to as "alien dignity." McCormick is in agreement with Thielicke that human dignity actualizes itself at the point at which man's value becomes debatable, "the point where his functional value is no longer listed on society's

²⁸⁶"The Judeo-Christian tradition... is an outlook on the human, a community of privileged access to the human...[it] is anchored in faith in the meaning and decisive significance of God's covenant with men, especially as manifested finally in the saving incarnation of Jesus Christ and the revelation of his final coming, his eschatological kingdom that is here aborning but will finally only be given." Ibid., 9.

²⁸⁷Ibid., 10.

²⁸⁸Ibid.

stock market and he is perhaps declared to be unfit to live."²⁸⁹

According to McCormick this position contrasts with the "tendency to assess persons functionally, to weaken our hold on the basic value that is human life."²⁹⁰ In the absence of a true human dignity there appears to be a greater proclivity of a "technologically advanced culture" to treat human beings functionally.²⁹¹ An example of this is the manner in which the elderly are often treated. They are seen as a burden by most, unable to care for themselves or contribute (materially through the market place) to society, and consequently are alienated. They no longer have a function in society, hence they are no longer deserving of respect and care.

A Christian tradition, McCormick tells us, is not to be understood as a substitute for one's conscience. We are all responsible for making our own choices. What a Christian tradition does is "insist that there is an ethic of means, because you deal with someone who is of more value than the sum of his—or her—parts, someone who is an end value in all human decisions."²⁹²

Morally right action, understood in the context of a Christian tradition, is action that presupposes every human being's dignity. In so far as all human beings possess an alien dignity their worth exceeds their ability to be a means to the end of others and of society as a whole. Human beings must never be treated as a means, and any act that includes the use of another person as a means to an end, no matter how

²⁸⁹Ibid.

²⁹⁰Ibid., 11.

²⁹¹Ibid.

²⁹²Ibid.

good the end is believed to be, is a morally wrong act.

Another aspect of moral action is its intersubjective nature. McCormick tells us that "true moral insight is mediated to the individual through participation in the community."²⁹³ A Christian's life is a life of sharing because "we cannot exist as Christians except in a community."²⁹⁴ This means that one's freedom to fulfil one's "potentialities as a person is conditioned by the authenticity of the other members of the community, and vice versa."²⁹⁵ McCormick rejects the view that individual and community "are separable and competing values" and contends that they are "coimplicating and interpenetrating...as two inseparable complementarities. It is not a question of individual versus community as if they were atomized."²⁹⁶ Nor is it a question of a "community that totally subordinates" the individual to it. We are responsible for taking into account the goods and interests of others when we are defining our own prerogatives and rights, but we are not expected to do so at the expense of our own dignity.²⁹⁷ An individual cannot be used as the means for the good of community. Therefore a conception of community must take into account the integrity of its symbiotic relationship with each individual, and each individual's actions must be seen in light of its impact on his or her own life as well as its impact on community as a whole. With this McCormick rejects the notion of a so called "private morality."

²⁹³Ibid., 13.

²⁹⁴Ibid.

²⁹⁵Ibid., 12.

²⁹⁶Ibid., 13.

²⁹⁷Ibid.

Let us return to the issue of abortion. For McCormick abortion "is a killing act."²⁹⁸ Some may wish to employ such terms as "procedure" or "emptying of the uterus" but this does not change the fact that the premature removal of the foetus from the uterus results in the death of the foetus.²⁹⁹ If abortion is the killing of the foetus, who in turn exists as a human being from conception, then abortion is a morally wrong act. However, McCormick in conceding that the taking of human life in circumstances in which doing so is the only "life-saving and life-serving" option and the lesser of two evils all things considered, is laying the foundation for the possibility of the conditional moral acceptability of abortion.

Like Grisez, McCormick addresses abortion, in some instances, as an indirectly voluntary evil rather than a directly voluntary attack on human life. The distinction between directly voluntary and indirectly voluntary acts, says McCormick, is used to face practical "conflict situations where evil can be avoided or a more or less necessary good achieved only when another evil is reluctantly caused."³⁰⁰ McCormick's interpretation of what constitutes indirectly and directly voluntary acts differs from Grisez's. McCormick agrees with Grisez that one should never turn away from a basic good and McCormick also concurs with the notion of an indivisible process. He states, "if the evil effect or aspect occurs within an indivisible process, the moral agent who posits a natural cause simultaneously (morally speaking) posits its

²⁹⁸Idem, "Abortion: A Middle Ground?," 43.

²⁹⁹Ibid.

³⁰⁰Richard McCormick, Ambiguity in Moral Choice (Milwaukee, Wisconsin: Marquette University Press, 1977), 1.

foreseen effect." In other words the evil effect is not a means to the good effect.³⁰¹ McCormick asserts that "Grisez provides a satisfying account of the origin of moral obligation with his analysis of basic human goods." But he goes on to accuse Grisez of falling short of the mark by not discussing the notion of proportionate reason. He claims that Grisez' interpretation "of what it means to turn directly against these basic human goods seems too contrived and incapable of accounting for the complexity of reality." Grisez' shortcoming is the result of "his reluctance to examine more realistically the notion of proportionate reason, a reluctance rooted in his nervous fear of any utilitarian calculus."³⁰² The following are six statements that encapsulate McCormick's tentative conclusions with regards to the principle of voluntary and involuntary evil.

1. There is a difference between an intending and permitting will, and therefore in the human action involving the one or the other.
2. In a conflict situation, the relation of evil to the value sought is partially determinative of the posture of the will (whether intending or permitting).
3. The basic structure, however, in conflict situations is avoidable/unavoidable evil, the principle of the lesser evil.
4. Both the intending and the permitting will (where evil is involved) are to be judged teleologically (that is, by presence or absence of proportionate reason).
5. Proportionate reason means three things: (a) a value at stake at least equal to that sacrificed; (b) no other way of salvaging it here and now; (c) its protection here and now

³⁰¹Richard McCormick, "Ambiguity in Moral Choice" in Doing Evil to Achieve Good Richard McCormick and Paul Ramsey ed. (Chicago: Loyola University Press, 1978), 26.

³⁰²McCormick believes that some form of calculus is unavoidable when examining moral choices. However, he does not adhere to a utilitarian calculus. In his discussion of proportionate reason he elaborates a teleological calculus. Ibid., 34.

will not undermine it in the long run.
 6. The notion of proportionate reason is
 analogous.³⁰³

Briefly the above means that there is a distinction between intending to cause an evil and actually permitting an evil to occur while attempting to facilitate a good.³⁰⁴ Hence if, for example, an abortion is required as the only way to save the life of the mother, and under no circumstances can the foetus be saved (ectopic pregnancy) then the abortion is permitted so as to allow the mother to live. In contrast, if a woman decides to have an abortion because she does not want any children then the abortion is not merely permitted but is intended. In the first instance abortion is not intended for its own sake but is permitted for the sake of a lesser of two evils, the loss of one life rather than two. In the second example abortion is intended as an end in itself.

In order to distinguish between an intending and a permitting will McCormick, following Grisez' lead, examines them within the context of the use of evil as a means to an end. When evil is a means to an end, good or bad, it is an intending will for evil itself.³⁰⁵ But how do we know when an action is a means to a good end? Again

³⁰³Ibid., 35.

³⁰⁴McCormick proposes that perhaps an intending will is "more closely associated with the existence of evil" than the permitting will. Ibid., p.36 However he later maintains the obscurity of such an assumption. "If someone is ready to bring the good into existence only by permitting the evil, it has been suggested that he is less willing that the evil exist. Yet it must be said that he is also less willing that the good exist. Furthermore the person who is prepared to realize the good even by intending the evil is more willing that the evil exist, but only because he is more willing that the good exist." Hence the argument that the permitting will is less closely associated with evil is "circular". Ibid., 43.

³⁰⁵Ibid., 37.

McCormick accepts Grisez' criterion stating that "if evil occurs within an indivisible process, then in the moral sense it is equally immediate with the good effect, and hence not a means."³⁰⁶

The notion of double effect arises out of a belief that there are certain goods that are desirable, legitimate and necessary and that sometimes these goods are inseparable from evil circumstances.³⁰⁷ So long as the intention is to achieve a good proportionate to the one taken then the intending of an evil is judged against the intending of the good. Here McCormick says that "if there is a truly proportionate reason for acting, the agent remains properly open and disposed toward the *ordo bonorum* whether the evil occurs as an indivisible effect or as a means within the action."³⁰⁸ He warns that evil-as-means and what is evil-as-effect are corporally distinct, and therefore, "what is sufficient for allowing an evil may not be sufficient for choosing it as a means."³⁰⁹ As alluded to above McCormick disagrees with Grisez that proportionate reason leads to a utilitarian calculus, though he does not deny that in addressing moral choices it is sometimes necessary to incorporate some form of calculation in order to ensure that at least some good can be salvaged out of what might otherwise be a wholly destructive situation. He states that "the end does not justify the means, but the ends do." By this McCormick means that "before an adequate assessment of an act be made, its effects on all

³⁰⁶Example; ectopic pregnancy. Ibid.

³⁰⁷Ibid., 39.

³⁰⁸Ibid., 40.

³⁰⁹Ibid.

the ends or values must be made."³¹⁰ Therefore depending on the calculable goods accrued by a particular act there will be some situations in which proportionate reason will permit an act as morally acceptable, whereas this same act under different circumstances may be judged as morally unacceptable.

The existence of a distinction between an intending and a permitting will where premoral evil is concerned should be regarded teleologically.³¹¹ In other words in so far as there is proportionate reason to act in a manner that will result or cause an evil then the initial act is morally acceptable. The presence or absence of proportionate reason, or the teleological foundation for an action, are key for McCormick. It will be recalled that proportionate reason carries with it the assumptions that; there is at stake a value equal to or greater than the one being sacrificed; that in the here and now this is the least destructive manner of protecting the value; and there will be no foreseeable long term corruption of the value by the means of its protection.³¹² By contrast "an action is disproportionate...if a lesser value is preferred to a more important one, if evil is necessarily caused in the protection of a greater good, [or] if in the circumstances, the manner of protecting the good will undermine it in the long run."³¹³ The distinction between direct and indirect evil lies in the presence or absence of proportionate reason as described above.

³¹⁰Ibid., 44.

³¹¹Ibid., 41.

³¹²Ibid., 45.

³¹³Ibid.

Finally McCormick explains that

the criterion of proportionality is that *ordo bonorum* viewed in the Christian perspective, for it is the *ordo bonorum* that is determinative of the good one should attempt to do and the criterion of the objectively loving character of one's activity.³¹⁴

He notes three aspects of proportionate reason in view of *ordo bonorum*. First there is the instance where permitting the evil is the only option short of causing a greater evil. For example in the case of ectopic pregnancy there is no way of saving the foetus, no matter what is done the foetus will die; however one can save the life of the mother. According to McCormick it would be immoral to continue the pregnancy knowing that there is no possible way that one's sacrifice can result in anything other than the death of both mother and child.³¹⁵

Second, in a distinct situation proportionate reason may be realized when I lay down my life for that of another. For example when a woman refuses therapy to cure her cancer because it would harm or kill her unborn child, who would otherwise be unharmed. McCormick suggests that

this is not proportionate because [one] life is preferable to [another]—they are equally valuable as basic human goods—but because in case of conflict, it is a human and Christian good to seek to secure this good for my

³¹⁴Ibid., 47.

³¹⁵"Love (as involving, besides *benevolentia*, also *beneficencia*) is always controlled by the possible. There is no genuine *beneficencia* if no good can accrue to the individual through my sacrifice. An act of love (as *beneficencia*) is not measured by the mere intention (*benevolentia*).³¹⁴ Hence in instances such as ectopic pregnancies abortion is a "proportionately grounded" decision because the evil of the death of the fetus cannot be avoided but the harm or death to the mother can. Ibid.

neighbour even at the cost of my life."³¹⁶

To say that self-sacrifice for the sake of another is morally acceptable implies that goods being weighed can include more than physical human life. It suggests that we live in a world of conflict, where we are "not mature in charity", and that maturing choices in a world of conflict and sin are often "those which prefer the good of another to self after the example of Christ."³¹⁷

Third, though it is morally right to give up one's own good or life for the sake of the good or life of another, it is not absolutely demanded. In other words "there is a proportionate reason for not aiding my neighbour in his distress or need."³¹⁸ *Caritas non obligat cum gravi incommodo*. That there are ideals that all human beings should strive for, is not to say that an inability to meet these ideals is necessarily immoral.³¹⁹

For McCormick there are conflict situations in which abortion is a morally acceptable option, but only when the conditions outlined above can be adequately satisfied. He rejects the notion that the morality of abortion is "simply a matter of a woman's determination and

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or "that abortion is a purely private affair."³²¹ He affirms that

³¹⁶Ibid.

³¹⁷Ibid., 48.

³¹⁸Ibid.

³¹⁹Ibid., 49.

³²⁰Idem, "Abortion: A middle Ground," 44.

³²¹Ibid., 45.

he cautions that in so far as abortion is a moral issue, which implies an intersubjective character, its pervasiveness has a much more far reaching effect than the two lives most directly involved. He states

Abortion's pervasiveness represents a horrendous racism of the adult world. When it is justified in terms of rights, all our rights are endangered because their foundations have been eroded by arbitrary and capricious application.³²³

³²³Ibid., 49.

CONCLUSION

What I have attempted to do throughout these pages is to illustrate several arguments on the topic of the moral character of abortion. In doing so it was my intention to demonstrate that while all assertions are rooted in a conception of what is good or best for human beings, some of these conceptions of human nature are more rationally compelling than others. As a result some moral arguments are more rationally compelling than others and therefore some arguments as to the moral status of abortion are rationally sounder than others.

Michael Tooley contends that the not yet born and the newly born, although human, are not persons who can be said to possess a serious right to life. In addressing Tooley's contentions one might first assert that in so far as one recognizes the potentiality of a human foetus to become a human person one is essentially accepting the human personality of a human foetus. This is true because if I were not already a human being I could never have a potential to become a full or more developed human being.³²⁴ As McCormick argues "human life is a

³²⁴The argument from potentiality has been compared to the analogy of an acorn and an oak tree. However this analogy would only be true if one was arguing that an unfertilized egg is a separate and distinct human being. The proper analogy would be to compare a sapling with a fetus in which case one would have to concede that the sapling and the fetus share a potential for maturity, one into an oak tree the other into an adult

continuum from the beginning."³²⁵ He cites Michael J. Walsh who asserts the "essential continuity of a human being from conception to death."³²⁶ It is in this light that McCormick speaks of the notion of "person in becoming." From the moment that life begins to the moment that it ends human beings are in a process of actualizing their personhood. The level of sophistication of this actualization changes as a human being grows but each level is necessary. Becoming persons is a continuous process. McCormick cites the Belgian ministry of health that proclaims that each stage of human life is "the necessary condition for the following and no moment is more important, more decisive, or more essential than another."³²⁷ In other words potential human life as actual human life must be respected in all its stages. We might also keep in mind, as McCormick tells us, that the language of personhood in reference to the moral character of abortion is often a means to cloud the real issue at hand.

Therefore the argument that the foetus lacks human personhood is inappropriate and invalid. What of the claim that the foetus lacks rights? Tooley tells us that rights are the measure of morality in that the ascription of rights is an assertion of an obligation that others have to act or to refrain from acting.³²⁸ Obligations here are conditional on a human being's ability to desire something or have an interest in something. A right to life, then, is conditional on an

person.

³²⁵McCormick, How Brave A New World?, 139.

³²⁶Ibid.

³²⁷Ibid., 134.

³²⁸Tooley, "Abortion and Infanticide," 61.

ability to desire life. Further, an obligation to respect the life of a person is conditional on the ability of that person to demonstrate a desire for life.³²⁹ Rights are grounded in desires and so is obligation. One has no obligation to the not yet born or the newly born because they are incapable of demonstrating a serious desire for life or an interest in it. Abortion is then morally acceptable. From this it is concluded that morality is based on desires. And in so far as morality is based on desires the risk of moral right and wrong shifting to accommodate the desires of the greatest number or the most powerful is very real.

As McCormick so aptly argues the notion of right is correctly understood to be analogous to the source and meaning of moral obligation. But "rights are convenient locutions for the existence of obligations"³³⁰ we have to one another as human beings. The foundation of rights must be grounded in the *ordo bonorum*, or otherwise fall prey to human prejudice. To ascribe a right is to articulate fundamental human goods and their corresponding moral obligations.

We must therefore be very cautious when arguing in favour of or against the morality of abortion in terms of rights. Modern rights are more likely to approximate Tooley's, Thomson's and Overall's understanding than McCormick's, for example, and are unlikely to provide rational protection for the not yet born, newly born, sickly, elderly and mentally challenged. The irony of the use of the modern language of rights is that those who use it are unwittingly laying the

³²⁹Ibid.

³³⁰McCormick, How Brave a New World?, 158.

ground work for it to be used against them, if and when they too become inconvenient to those more powerful and more persuasive than they.³³¹

Nor is an emotivist understanding of morality, as the one exemplified by Carol Gilligan, more likely to present any reasonable arguments on the issue of abortion. More than arguments based on rights, the emotivist depends on a manipulative persuasiveness, for at least rights based arguments have some foundation in reason, albeit truncated. The most needy of protection are the most vulnerable to moralities based on the arguments of modern rights or emotivism: unsound moral philosophies.

The conception of morality that I espouse is one that recognizes human beings as beings in becoming. Morality here assumes that there is a specific end that is appropriate to human beings toward which they all should strive. It assumes that the attainment of this end requires us to act in a manner that always takes into consideration this end. Morality although personal in its implications and its actualization is also interpersonal in so far as human beings are by nature interactive. Morality here incorporates the belief that the sum of a human being is not quantifiable because of the non quantifiable aspect of our being, that is, the soul. In a sense moral action is reflective of a well ordered soul. And as Plato tells us "the polis is the psyche writ large" or the order of a society depends on the order of the soul of its citizens.

Although passions and desires are a very real dimension of human

³³¹Rainer Knopff, "Rights, Power-Knowledge, and Social Technology" in George Grant and The Future of Canada ed. Yusuf K. Umar (Calgary, Alberta: University of Calgary Press, 1992), 59-73.

beings it is not the core of human beings. Moral philosophies that fail to recognize that the only means of ordering communities is by encouraging the individuals within said community to get their individual souls and lives in proper order have failed in their purpose. Eric Voegelin tells us that without a *summum bonum* "there is no point of orientation that can endow human action with rationality. Action, then, can only be represented as motivated by passions, above all, by the passion of aggression, the overcoming of one's fellow man."³³²

A society that refuses to regulate such destructive actions as abortion is feeding the decay of the society as a whole and the decay of those individuals living in said society. Communities where education, medical attention and welfare are rights only demonstrate their sickness when they refuse to recognize the dignity of the most defenceless member of that society—the-not-yet born. There are those who claim that abortion pertains to "individual morality" and "poverty and racism" pertain to "social morality."³³³ But as has already been suggested and as Bernard Hring argues

there are always at least two persons concerned besides the foetus: the two who have transmitted life and decide, alone or together, to do away with this life. And to deny that such a decision has a social dimension is tantamount to denying that the human person has a social dimension at all.³³⁴

It is the responsibility of each individual to act in a manner fitting

³³²Eric Voegelin, Science, Politics and Gnosticism (Washington, D.C.: Regnery Gateway, 1990), 102.

³³³McCormick, How Brave a New World?, 174.

³³⁴Bernard Hring, Free and Faithful in Christ (New York: Crossroad, 1981), 28.

of their humanness, and this means acting morally right with regards to abortion as much as to theft, deception and murder.

Conclusions as to the moral character of abortion, invariably, produce implications for the appropriate legislation regarding abortion. Although it has not been the aim of this thesis to discuss legislation on abortion I would like to end with the following propositions.

Mary Ann Glendon argues that law serves not only to "organize and coerce" but also to educate. She cites Boyd White who suggests that "law is most usefully seen not...as a system of rules, but as a branch of rhetoric,... as the central art by which community and culture are established, maintained and transformed."³³⁵ The types of laws a society has will reflect to some degree the kind of values and goods the society embraces. The purpose of Glendon's inquiry is "to examine the messages about such important matters as life and liberty, individual autonomy and dependency that are being communicated both expressly and implicitly by abortion regulation."³³⁶ With liberalized abortion laws we are implicitly saying that nascent human life can be disposed of when it has no immediate calculable worth to us. Dr. F.L. Morton, in a paper given at the 1992 University of Calgary Catholic Lenten Lecture series warns that though a liberal democratic political system is the most politically liberating, without some mechanism to ensure that society will be populated with virtuous or moral citizens we find ourselves living under immoral laws and surrounded by cheats,

³³⁵Mary Ann Glendon, Abortion and Divorce in Western Law (Cambridge, Mass.: Harvard University Press, 1987), 9.

³³⁶Ibid., 15.

liars and crooks. The only way to foster good citizens and a good society is by teaching and practising a sound morality not modern moral substitutes.

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