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by

Kurt Charles Liebegott

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For Caroline, the love of my life.

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ABSTRACT

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This dissertation is a new defense of the moral permissibility of abortion. The first chapter gives definitions, methodology, and an overview of the current abortion debate. The first chapter also addresses the Benefit of the Doubt Argument, which says that abortion should be treated as morally wrong on the chance that the anti-abortion position is correct and abortion is murder. This argument fails because it assumes a counterintuitive standard of doubt and parallel arguments outside of the abortion debate fail. The second chapter defends Judith Jarvis Thomson's pro-abortion violinist argument against the Responsibility Objection, which says that a woman who becomes pregnant due to voluntary intercourse is responsible for the need of the fetus for her body and so cannot have a morally permissible abortion. The Responsibility Objection is circular because abortion fails to meet this responsibility only if abortion is already morally wrong, so the Responsibility Objection fails. The third chapter addresses the arguments of Patrick Lee and Francis Beckwith that abortion is morally wrong because fetuses are human substances with an essential right to life. These arguments fail because they cannot handle cases involving stored IVF zygotes or creating or transferring consciousness. In these cases the human substance proposal either is shown to support

the pro-abortion position rather than the anti-abortion position or has highly implausible ethical implications that make it almost certainly false. The final chapter addresses the argument of Don Marquis that abortion is morally wrong because it robs fetuses of their valuable futures. This argument fails because the nature of time limits the plausible interpretations of what it means to rob a fetus of its future. Either the future is real, or it is not. If the future is real, then this argument gives wrong answers when applied outside of the abortion debate. If the future is not real, then this argument reduces to the argument addressed in the third chapter that abortion is morally wrong because a fetus is a human substance. The overall conclusion is that the pro-abortion position is stronger and the anti-abortion position is much weaker than is usually believed.

CHAPTER 1: SETTING THE STAGE: DEFINITIONS, METHODOLOGY, AND THE STATE OF THE LITERATURE

My dissertation gives a new defense of the moral permissibility of abortion. Two main questions are addressed. First, are there new ways of analyzing the most important existing arguments that can help to resolve the abortion issue? Second, are there new arguments that can help to resolve the issue? I will argue that the answer to both of these questions is “yes.” Furthermore, the new analysis and new arguments that I will put forward strongly suggest that abortion is morally permissible in most circumstances. I answer both of these questions over the course of four dissertation chapters.

The first chapter is an introduction to the dissertation project. It addresses the current status of the philosophical literature on abortion, broadly speaking, and concludes that the philosophical abortion debate appears to be in a stalemate. It will also address other preliminaries such as definitions and methodology. Finally, it will address the question of how to judge the abortion debate. Some philosophers have argued that fetuses should be given the benefit of the doubt and therefore that the position that abortion is generally or *prima facie* morally permissible should be accepted only if the evidence is overwhelmingly in its favor. This argument does not work for two reasons: it assumes a standard of doubt that yields drastically counterintuitive results in non-abortion cases, and parallel arguments outside of the abortion debate appear to fail. As a

result, the best option that remains is to evaluate the abortion debate by examining the available arguments. The remaining chapters attempt to provide new sorts of arguments in favor of the position that abortion is generally or *prima facie* morally permissible.¹

The second chapter will address the strongest objection to one of the most important current arguments for the conclusion that abortion is morally permissible. This argument for the moral permissibility of abortion is due to Judith Jarvis Thomson and based upon an example that effectively involves you becoming a living kidney dialysis machine against your will.² The argument claims that this example shows that a right to life is simply a right not to be killed unjustly. A fetus has no right to the body of the pregnant woman carrying it, which means that abortion does nothing unjust to the fetus. As a result, abortion is not an unjust killing and violates no one's right to life. Consequently, abortion cannot be morally wrong and must therefore be morally permissible even if the fetus has a right to life. The strongest objection to this argument claims that becoming an involuntary living kidney dialysis machine is relevantly dissimilar to the vast majority of pregnancies and therefore does not show anything about abortion in general. This is because pregnant women have responsibilities to the fetuses they carry as a result of participating in voluntary intercourse, unlike in the example where you have no responsibilities because you were forced into the situation against your will. Since abortion fails to fulfill these responsibilities, abortion is an unjust killing

¹ For the remainder of this dissertation, I will usually drop the "generally or *prima facie*" that qualifies the terms "morally wrong," "morally permissible," and the various shorthand versions and derivatives thereof. This is for conciseness only. Consider all of them to have an implied "generally or *prima facie*" in front.

² Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

and is therefore morally wrong because it violates a fetus's right to life.³ The second chapter provides an argument that this objection involves circular reasoning and therefore is ineffectual due to the assumptions it makes about the nature of responsibility. It is concluded that the original argument that abortion is not an unjust killing and violates no one's right to life has not been refuted, and therefore we have a plausible argument that abortion is morally permissible.

The third and fourth chapters will address the two main versions of the most important current argument for the conclusion that abortion is generally or *prima facie* morally wrong. The third chapter addresses the argument that abortion is morally wrong because it violates the right to life that a fetus has in virtue of being a human substance.⁴ I show that this argument that abortion is morally wrong cannot work because it can only plausibly claim that abortion is morally wrong by effectively equating the properties of being a human substance and being biologically human. Since a biological basis for being a human substance is implausible in circumstances outside of the abortion debate, this gives us a good reason to reject this argument for the conclusion that abortion is morally wrong. The fourth chapter addresses Don Marquis's argument that abortion is morally wrong because it robs a fetus of its valuable future.⁵ An argument is given that due to the nature of time there are only a few plausible interpretations of what it means to rob a fetus of its valuable future. Either the future is real, or it is not. If the future is real, then this argument that abortion is morally wrong is not plausible because it gives a

³ See, for example, the following: Beckwith, Francis J. "Personal Bodily Rights, Abortion, and Unplugging the Violinist." *International Philosophical Quarterly* 32.1 (March 1992): 105-118. More examples will be provided in the second chapter.

⁴ See, for example, the following: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. More examples will be provided in the third chapter.

⁵ Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

clearly incorrect reason why killing in general is wrong. If the future is not real, then this argument that abortion is morally wrong is a rewording of the argument that abortion is morally wrong because it violates the right to life that a fetus has in virtue of being a human substance, and is thereby subject to the same objections raised in the third chapter.

My first chapter provides the background information upon which the rest of the dissertation is based. This background information includes defining important terms, reviewing the current philosophical debate on the moral permissibility or wrongness of abortion, and noting important methodological points. This chapter concludes with a discussion of how one should rationally judge the abortion debate. It is argued that judgment should be based upon a rational analysis of the available arguments. This leads into the new analysis and arguments that attempt to show that we have more reason than has previously been thought to believe that abortion is morally permissible that are presented in the remainder of the dissertation.

1.1: Definitions

I would like to begin by giving a definition of the term “fetus.” I will be using the term “fetus” to refer to that carried within a pregnant woman at every stage of pregnancy, from conception to birth, and not carried within a woman at any other time.⁶ This definition may be incomplete or in need of some clarification due to some odd cases, but the continuously existing being that is referred to by this definition is obvious. For example, placental material is not a fetus despite being a part of pregnancy and deriving from the same cellular material. Likewise, before twinning there is one fetus, and after

⁶ The second half of this definition is there to rule out regular body parts of the pregnant woman, such as kidneys, from being considered fetuses. I would like to thank Dr. Mark Bernstein for pointing out the need for this clarification.

twinning there are two. Common sense is a good guide to usage here. This definition is common in the literature on abortion – as is using common sense as a good guide to its use – despite this usage being technically incorrect since embryology and medicine use the term “fetus” to refer to a specific stage of human development. The reason for this is that, in most cases involving the abortion debate, being technically correct about the stage of human development is much less helpful than having a convenient term to refer to that carried within a pregnant woman at every stage of pregnancy and not carried within a woman at any other time that avoids loaded language. There are only two other options in anything approaching regular use. One option is to use the correct technical terms for each stage of development, which is confusing and time-consuming. The other option is to use the term “unborn,” which is a paradigm case of loaded language favoring the view that abortion is morally wrong since it implies that the only important difference between that carried within a pregnant woman at every stage of pregnancy and not carried within a woman at any other time and a newborn baby is whether or not it has been born. Since both of these other options have these serious problems that should be avoided as far as possible, the definition of “fetus” as “that carried within a pregnant woman at every stage of pregnancy, and not carried within a woman at any other time” makes for convenient and easily understood shorthand and the best definition. If the term “fetus” is ever used in its proper technical usage, it will be noted as such; otherwise, it will be used in the way common in the literature on abortion for the reasons just given above.

The first term that I would like to define in detail is “abortion,” which is an attempt⁷ to terminate a pregnancy that is done with the intent that the fetus will not, barring extraordinary circumstances, come to term. This detail is necessary in order to be clear on what is covered by various arguments about abortion in the literature and below as well as to limit what actions count as abortion, as will be explained. According to this definition, current standard abortion procedures are obviously abortions. Actions such as removing the fetus and placing it in permanent cryogenic storage and causing an intentional miscarriage, among others, are also considered to be abortions according to this definition. These actions count as abortions even if the fetus does somehow come to term, which is why “barring extraordinary circumstances” is a part of the definition. One example would be if someone steals a fetus from permanent cryogenic storage that was put there by the woman originally carrying it and sees that it is carried to term against the express wishes of its biological mother. Another example is if a fetus miraculously continues to live and comes to term after being removed by a current standard abortion procedure. In either case, since the original intent was that the fetus never comes to term the action that terminated the pregnancy was still an abortion despite the fetus coming to term anyway. Actions that would not count as abortions include accidentally causing a miscarriage and transferring a fetus from one woman to another, either directly or by temporarily placing the fetus in storage, among others. These actions are not abortions even though a pregnancy is terminated. In the case of an accidental miscarriage, the

⁷ I take “attempt” to necessarily include intention. For example, it does not seem possible for me to attempt to give you money while intending to deny you the money, as this seems incoherent. Part of what makes an action an attempt to give you money is that I intend to give you money, since if I give you money while intending to do X instead then I was attempting to do X but accidentally ended up giving you money instead. As a result, I consider phrases such as “intended attempt” to be redundant, and will simply use “attempt” by itself.

termination was unintentional and therefore not an attempt to terminate the pregnancy at all, so it does not fit the definition of an abortion. In the case of a fetus transfer, the termination of the pregnancy is being done with the intent that the fetus come to term some other way than continuing the current pregnancy. As a result, there is no intent that the fetus not come to term, so it does not fit the definition of an abortion.

I think that my definition of abortion is preferable to the usual definition of something like “the intentional termination of a pregnancy” or “an attempt to terminate a pregnancy” for at least three reasons. First, I think it better captures the exact intention of abortion in almost all cases, which is not simply to end the state of pregnancy but to prevent the birth of the child. This can be seen, for example, in studies in which people are asked about the relevance of the development of an artificial womb and fetus transfer techniques to their stance on abortion: almost everyone maintains their current stance precisely because such a development would only affect pregnancy but not the birth of the child.⁸ The usual definition does not adequately capture this because it does not focus on intent in any detailed way, much less on the intent to both end the pregnancy and prevent the birth of the child. Second, my definition is more accurate. Without modification, the usual definition would have to consider moving the fetus to an artificial womb an abortion since it is the intentional termination of a pregnancy, which sounds odd and incorrect. My definition would not classify it as an abortion since the intent is to allow the fetus to come to term even though it ends the pregnancy, which is reasonable

⁸ See, for example: Coleman, Stephen. “Abortion and the Artificial Uterus.” *Australian Journal of Professional and Applied Ethics* 4.2 (November 2002): 9-18. The main concern of most people discussed in this article was becoming a parent rather than being pregnant, although being pregnant was also an important concern. Since transfer of a fetus to an artificial uterus would not alter whether or not one becomes a parent, its development would make little difference because it does not address the main concern involved.

and intuitive. Third, my definition does not restrict abortion to current and past technology and practice. It sounds odd to say that an abortion was performed and the fetus survived, which initially would seem to favor retaining the usual definition. However, this only seems odd due to the abortion procedures that we have thus far developed, all of which kill the fetus in the process of terminating the pregnancy. Should a procedure be developed that can transfer a fetus alive and intact, and a fetus is transferred into permanent cold storage with the intent that the fetus never come to term, I see no reason to think that this is not an abortion. This is an intentional termination of a pregnancy with the intent that the fetus never come to term. The fact that the fetus does not die immediately, unlike in current procedures, seems irrelevant. This procedure accomplishes the goal of an abortion, namely terminating a pregnancy as well as preventing the fetus from coming to term, even if in a different way than is currently possible. Without a good argument to the contrary, there is no reason to restrict our definition of abortion to current and past technology and practice, and this definition does not do so. For these reasons, I will be using the above definition of the term “abortion” in all cases.

Finally, I would also like to define the terms I will be using for the two positions in the abortion debate. These two positions are commonly called “pro-choice” to refer to those that hold that abortion is generally or *prima facie* morally permissible and “pro-life” to refer to those that hold that abortion is generally or *prima facie* morally wrong. Both of these terms are misnomers and use loaded language, and have many other problems as well. For example, people who are “pro-life” are not against legitimate moral choices, contrary to what is literally implied by not being “pro-choice.” Similarly,

people who are “pro-choice” are not for the indiscriminate ending of lives that deserve moral consideration, contrary to what is literally implied by not being “pro-life.” The many problems with these terms give us a good reason to avoid using them and to use alternatives instead. I propose to use the terms “pro-abortion” and “anti-abortion” to refer to the two positions. These terms are also not perfect. In particular, one might have a problem with the position that abortion is generally morally permissible being called “pro-abortion,” as this seems to imply that people who hold this position think that abortion is a good thing, or should be encouraged, and so forth. Obviously this need not be the case, since thinking that something is generally morally permissible does not require thinking that it is a good idea or should be encouraged: an obvious example would be overeating. This implication can be easily avoided if we are careful to think of “pro-abortion” as shorthand for “pro-abortion’s-general-moral-permissibility,” in exactly the same way that “anti-abortion” is really “anti-abortion’s-general-moral-permissibility.” Again, this is not perfect, but these terms are concise while being fairly accurate and avoiding the problems of the usual terms. As such, I will be using “pro-abortion” and “anti-abortion” to refer to the two positions in the abortion debate.

1.2: The State of the Literature

The philosophical debate on abortion and the literature that has resulted from it is vast. There are a large number of arguments for each position in the abortion debate, and it would be very difficult to cover them all in a reasonable amount of space. Due to this, I will be focusing on what appears to be the most common and most widely defended

subset of arguments for each position.⁹ Uncommon arguments, such as ones based upon the golden rule or feminist philosophy, are being excluded for space and the sake of a more focused dissertation. This will allow for focus and conciseness that would not otherwise be possible, and is not intended to disregard or denigrate these less common arguments. There is simply not enough time and space to cover these less common arguments as well, and as such they will not be addressed in this dissertation. The most common and most widely defended subset of arguments for each position will be described below.

The anti-abortion position holds that, with the possible exception of cases such as pregnancies due to rape, pregnancies that endanger the mother's life or health, and serious fetal abnormalities, abortion is generally or *prima facie* morally wrong.¹⁰ What I will call the main anti-abortion argument is the most influential argument for this position, at least in terms of being the most common and most widely defended. It runs as follows. Since it is uncontroversial that killing an innocent adult such as you or me is *prima facie* wrong, we should figure out what it is about us that makes killing us *prima facie* wrong.¹¹ If fetuses possess the same property or properties that make killing us

⁹ David Boonin's book *A Defense of Abortion*, in my opinion, is the best example in the abortion literature for covering a very large number of arguments reasonably well while being fairly concise. Even so, his book is 350 pages long, does not cover every argument, and is mostly devoted to just a few major arguments. This seems to me to argue for focus rather than breadth in this dissertation, and that is what I plan to do. See the following: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

¹⁰ Note that these are possible exceptions to abortion being morally wrong. Some versions of the anti-abortion position reject some or all of them as being exceptions. This is not an exhaustive list. Different versions of the anti-abortion position have different exceptions, and some have none.

¹¹ Remember that, for the remainder of this dissertation, I will usually drop the "*prima facie*" that qualifies the terms "morally wrong," "morally permissible," and the various shorthand versions and derivatives thereof such as "wrong" and "permissible." This is for conciseness only. Consider all of them to have an implied "*prima facie*" in front.

wrong, then it is also wrong to kill them and it follows that abortion is wrong.¹² A proposal is then defended about which properties make killing us wrong, which always selects properties that make killing us wrong which are also properties possessed by fetuses.¹³ It is therefore concluded that abortion is wrong since a fetus has the same properties that make killing an innocent adult wrong, or to put it in other words, abortion is a type of murder. In standard form, the argument is roughly as follows:

- 1) Killing an innocent adult, P, is wrong.
- 2) The fact that P has property or set of properties X is what makes killing P wrong.
- 3) A fetus, Q, has X.
- 4) Abortion kills Q.
- C) Abortion is wrong.

The main anti-abortion argument is fleshed out in different ways by different defenders of the anti-abortion position mainly by using and defending different proposals for which properties make killing us wrong. In other words, the main differences between the most common and thorough defenses of the anti-abortion position are in how X, in the above standard form of the argument, is spelled out.

The two most common and most widely defended proposals for which properties make killing us wrong are having a future-like-ours, and having a right to life due to being a human substance. The future-like-ours proposal claims that what makes killing

¹² The most straightforward statement of this form of argument is in: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹³ Remember, we are talking about the anti-abortion position. Any selected properties that make killing us wrong but which are not properties clearly possessed by fetuses would result in a pro-abortion argument instead, as will be seen below.

us wrong is that death denies us the value of all of the valuable experiences we would have had should we have continued to live instead. In other words, killing an innocent adult is wrong because it deprives that individual of his or her valuable future. Because a fetus would eventually be born and grow into an adult if left alone, there is a set of valuable experiences that a fetus would have if it should continue to live. This means that abortion deprives a fetus of its valuable future in exactly the same way that killing an innocent adult does, and as such abortion is wrong.¹⁴ The human substance proposal claims that what makes killing us wrong is that it violates our right to life, which we have in virtue of being human substances. Being a human substance is an essential or necessary property, and as such is possessed by us for our entire existence. Since we, as individuals, began our existence at conception, it follows that we were human substances that possessed a right to life when we were fetuses. This means that all fetuses have a right to life, and therefore abortion is wrong because it violates that right to life.¹⁵ It is upon these two proposals that I will focus my third and fourth chapters, where they will be explained in more detail.

The usual reply to the main anti-abortion argument is, in essence, to defend an alternative proposal for which properties make killing us wrong where the properties are clearly not possessed by fetuses. By choosing properties not possessed by fetuses, the reply concludes that the main anti-abortion argument fails because it has a false premise and therefore it gives us no reason to believe that the conclusion is true, or even likely to

¹⁴ See, for example, the following: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁵ See, for example, the following: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54. Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263.

be true, based upon this argument. The premise that is claimed to be false is premise (3) in the above standard form of the main anti-abortion argument, which says that a fetus has the same property or set of properties that make killing an innocent adult wrong. This usual reply to the main anti-abortion argument is usually coupled with objections to the above anti-abortion proposals about which properties make killing us wrong that are intended to show that the pro-abortion proposal is more plausible. For instance, examples are often raised that are intended to show that the above anti-abortion proposals lead to clearly incorrect moral evaluations in certain non-abortion situations while the pro-abortion proposal leads to the clearly correct moral evaluations.

One example of the usual reply is the interest proposal of Bonnie Steinbock. The interest proposal claims that what makes killing us wrong is that death goes against our interests. This is true for our direct interest in continuing our existence in and of itself as well as our indirect interest in continuing our existence that is both implied and required by almost all of our other interests. After all, if I have an interest in going out to dinner with my wife next week, then I also must have an interest in continuing to exist since I cannot have dinner with my wife if I cease to exist between now and then. In other words, killing an innocent adult is wrong because that individual has an interest in continuing his or her existence that is obviously thwarted by being killed. Steinbock argues that an individual can have interests only if the individual is sentient or, in other words, is able to experience pleasure and pain. A being that is not sentient, such as a rock or a tree, cannot have interests. This is because interests are mental states or dispositions that express preferences and a being that is not sentient cannot have such

mental states or dispositions.¹⁶ Indeed, these examples of beings that are not sentient are not even conscious and therefore cannot have any mental states or dispositions whatsoever, which obviously precludes having interests.¹⁷

Fetuses – at least for a significant portion of their development and certainly during the first trimester of pregnancy – are neither sentient nor conscious and are not even capable of sentience or consciousness due to lacking the necessary parts of the brain. This means that fetuses do not have interests, which in turn means that premise (3) in the above standard form of the main anti-abortion argument, which says that a fetus has the same property or set of properties that make killing an innocent adult wrong, is false. If the interest proposal is correct, then fetuses do not have the property – having interests – that makes killing us wrong and the main anti-abortion argument fails.¹⁸

Steinbock argues that the interest proposal is most likely true in two ways. First, it successfully matches up with our moral intuitions and can reasonably answer hard cases in non-abortion situations. Second, what Steinbock views as the most viable anti-abortion proposal, the future-like-ours proposal of Don Marquis briefly described above,

¹⁶ So far as I am aware, Steinbock does not directly address the issue of beings with mental states or dispositions, including those that express preferences, but who are incapable of experiencing pleasure and pain because of the type of mental life they possess. An example of such a being would be the android Commander Data from *Star Trek: The Next Generation* prior to the installation of an emotions chip. These odd cases might be avoided by restricting Steinbock's claim to biological life forms, or slightly altering Steinbock's claim to say something along the following lines: an individual can have interests only if the individual is capable of a certain degree of consciousness, and in biological life forms this degree of consciousness is typified by sentience. Another option is to argue that beings like Data are sentient or something roughly equivalent, but such a radically different life form would experience "pleasure" and "pain" very differently than a standard biological life form. In any case, this would not seem to affect Steinbock's argument as applies to fetuses because they have no mental lives whatsoever for much of their development. I would like to thank Dr. Martin Curd for drawing this point to my attention.

¹⁷ See, for example, pages 472-474 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482.

¹⁸ See, for example, pages 472-474 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482.

cannot work because it has the clearly incorrect implication that not just abortion but also contraception and possibly abstinence are just as wrong as murder. Therefore, the interest proposal is more plausible than any competing anti-abortion proposal, which gives us good reason to think that premise (3) in the above standard form of the main anti-abortion argument is false and the main anti-abortion argument fails.¹⁹

The pro-abortion position holds that, with the possible exception of cases such as late-term elective abortions, abortion for gender selection, and abortion as a form of revenge on a sexual partner, abortion is generally or *prima facie* morally permissible.²⁰ There are two main pro-abortion arguments, at least in terms of being the most common and most widely defended. The first argument is more or less the pro-abortion mirror image of the main anti-abortion argument, and runs as follows. It is uncontroversial that killing an innocent adult such as you or me is wrong, so we should figure out what it is about us that makes killing us wrong. As the anti-abortion position notes, if fetuses have these same properties that make killing us wrong, then it is also wrong to kill them and it follows that abortion is wrong. It is also the case that if fetuses lack the same property or properties that make killing us wrong, then either it is not wrong to kill them or it is wrong to kill them for a different reason than it is wrong to kill us. It does not appear to be the case that it is wrong to kill fetuses for a different reason than it is wrong to kill us because no plausible reasons of this sort have been offered. In addition, claiming that

¹⁹ See, for example, pages 474-478 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482. All of the above arguments from Steinbock are also included in much more detail in the following: Steinbock, Bonnie. *Life Before Birth: The Moral and Legal Status of Embryos and Fetuses*. New York: Oxford University Press, 1992.

²⁰ Note that these are possible exceptions to abortion being morally permissible. Some versions of the pro-abortion position reject some or all of them as being exceptions. This is not an exhaustive list. Different versions of the pro-abortion position have different exceptions, and some have none.

there is a reason of this sort runs the risk of begging the question against the pro-abortion position or committing special pleading by citing a reason that conveniently applies only to fetuses, and as such would require even stronger arguments than usual to be at all convincing. With the option that it is wrong to kill fetuses for a different reason than it is wrong to kill us off the table due to its being unsupported in the literature and very difficult to establish in any case, the following statement is true: if fetuses lack the same property or properties that make killing us wrong, then it is not wrong to kill them and it follows that abortion is permissible. A proposal is then defended about which properties make killing us wrong, which always selects properties that make killing us wrong and which are also properties that are clearly not possessed by fetuses. It is therefore concluded that abortion is permissible since a fetus does not have the same properties that make killing an innocent adult wrong and therefore there is no reason to think that abortion is morally wrong. In standard form, the argument is roughly as follows:

- 1) Killing an innocent adult, P, is wrong.
- 2) The fact that P has property or set of properties X is what makes killing P wrong.
- 3) If a being lacks X, then killing that being is permissible.
- 4) A fetus, Q, lacks X.
- 5) Abortion kills Q.
- C) Abortion is permissible.

This pro-abortion argument is fleshed out in different ways by different defenders of the pro-abortion position mainly by using and defending different proposals for which properties make killing us wrong, or in other words how X in the above standard form of

the argument is spelled out. An example would be Steinbock's interest proposal explained above, where what makes killing us wrong is that we have an interest in continuing our existence. Since fetuses cannot have interests because they lack sentience and even lack the capability for consciousness, it is not wrong to kill them.²¹

Another example proposal would be David Boonin's proposal of organized cortical brain activity. The organized cortical brain activity proposal claims that what makes killing us wrong is that it thwarts our ideal dispositional desire to continue our existence. A dispositional desire is a desire that you have even if you are not thinking about it right now, contrasted with an occurrent desire, which is a desire that you have only while you are thinking about it. An ideal desire is a desire that you would have if you had ideal information about the situation, contrasted with an actual desire, which is a desire that you have based upon the information you actually possess. Using our ideal dispositional desire to continue our existence as the property that makes killing us wrong rules out odd cases that we know need to be ruled out by any viable ethical theory. These cases include killing the temporarily comatose, who have no occurrent desires but do have a dispositional desire to live, and killing the suicidal, who have an actual desire to die based upon mistaken thinking but whose ideal desire is to live. An individual can only have ideal dispositional desires if the individual has actual desires. This is because ideal desires are actual desires corrected with ideal information, so without any actual desires there is nothing to correct and therefore no ideal desires. Since actual desires are either conscious experiences if they are occurrent or are the result of having conscious

²¹ Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482. Steinbock, Bonnie. *Life Before Birth: The Moral and Legal Status of Embryos and Fetuses*. New York: Oxford University Press, 1992.

experiences so that one develops preferences and the like if they are dispositional, having actual desires requires having conscious experiences. This in turn requires having organized cortical brain activity since this activity is what generates conscious experiences in the first place. Organized cortical brain activity is a necessary requirement for having the same property that makes killing us wrong. Fetuses – at least up until about the 25th week of pregnancy and possibly even later – cannot have organized cortical brain activity because the fetal brain as a whole and the fetal cerebral cortex in particular are not developed enough to possibly have such activity. Therefore, fetuses lack the same property that makes killing us wrong, which means that all of the premises of the above standard form of this pro-abortion are true and it follows that abortion is permissible.²²

The second main pro-abortion argument takes a very different approach from the first, and runs as follows. It is uncontroversial that killing an innocent adult such as you or me is wrong, therefore we should figure out what it is about us that makes killing us wrong. Let us now go a step further, and assume for the sake of argument that all fetuses do in fact possess the same property or properties that make killing us wrong.²³ According to the main anti-abortion argument, it immediately follows from this assumption that it is just as wrong to kill a fetus as to kill an innocent adult, which makes abortion just as wrong as murder. This main pro-abortion argument instead denies that

²² See, for example, pages 115-116 and 122-127 of the following: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

²³ Note that because this assumption is for the sake of argument the second main pro-abortion argument complements, rather than competes with, the first main pro-abortion argument. The first argument claims that fetuses lack the same property or properties that make killing us wrong and this shows that abortion is permissible. The second argument claims that even if fetuses have the same property or properties that make killing us wrong it is still the case that abortion is permissible.

abortion being wrong follows directly from this assumption, because there is another condition that needs to be satisfied first. To see why, consider the case of an innocent adult. While this adult clearly has whatever property or properties that make killing us wrong, it only follows that it is usually or *prima facie* wrong to kill this adult. There are clear examples where killing this adult would be morally permissible in spite of the adult's possessing whatever property or properties that make killing us wrong: self-defense or the adult being an enemy soldier in a justified defensive war would be the two most obvious and widely agreed upon cases. This shows that the property or properties that make killing us wrong is more accurately regarded as the property or properties that make killing us wrong in most, but not all, circumstances. It follows from this that it is not enough for the main anti-abortion argument to show that fetuses do in fact possess the same property or properties that make killing us wrong in most circumstances. The conclusion that abortion is wrong does not follow unless it is also shown that abortion is not one of the circumstances that are exceptions. In other words, even if fetuses have the same property or properties that make killing us wrong in most circumstances, figuring out whether abortion is wrong or permissible requires figuring out whether abortion is more like murder or more like self-defense. This main pro-abortion argument then claims that other cases that are relevantly similar to pregnancy where the person relevantly similar to the fetus is killed are exceptions where the killing is permissible. It follows from this that we have good reason to think that abortion is an exception where

the killing is permissible, and it is therefore concluded that abortion is permissible even if all fetuses have the same property or properties that make killing us wrong in most circumstances.²⁴

In standard form, this second main pro-abortion argument is roughly as follows:

- 1) Killing an innocent adult, P, is wrong in most circumstances Y.
 - 2) The fact that P has property or set of properties X and is in Y is what makes killing P wrong.
 - 3) If a being either lacks X or is in exceptional circumstances Z rather than Y, then killing that being is permissible.
 - 4) A fetus, Q, has X.
 - 5) Abortion kills Q in Z.
- C) Abortion is permissible.

This second main pro-abortion argument was originally argued in the literature by Judith Jarvis Thomson, and as a result is often called Thomson's argument or a close variation thereof.²⁵ The usual reply to Thomson's argument is known as the Responsibility Objection, and it goes roughly as follows. The cases that are relevantly similar to the overwhelming majority of pregnancies are not those presented in favor of Thomson's argument but rather those where the person relevantly similar to the fetus is killed and that killing is wrong. In particular, the cases that are relevantly similar to the overwhelming majority of pregnancies are cases where one person has, through a voluntary action, caused another person to be put in need of some kind of aid when this

²⁴ See, for example, the following: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

²⁵ Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

result was a foreseeable consequence of the voluntary action. In these cases the person who performed the action has a moral responsibility to see that the person in need receives appropriate aid. Purposely failing to fulfill this moral responsibility is wrong. Now, if a woman has voluntary intercourse and becomes pregnant as a result, then she has caused the fetus to be put in need of her body, and so she is responsible for seeing that the fetus comes to term. As such, abortion in the overwhelming majority of cases is wrong because it is purposely failing to fulfill the pregnant woman's responsibility for the fetus.²⁶ In other words, Thomson's argument fails because premise (5) in the above standard form of the argument is false. This means that Thomson's argument gives us no reason to believe that abortion is permissible, and in fact gives us a good reason to believe that abortion is wrong. This is because the falsity of premise (5) entails that abortion kills fetuses in a circumstance where it would be wrong to kill fetuses, thereby showing that abortion is wrong. The usual pro-abortion response to the Responsibility Objection is to argue that pregnancy due to voluntary intercourse cannot possibly create this kind of responsibility. David Boonin, for example, argues that the Responsibility Objection fails because there are counterexamples that show that putting someone in need of aid as a foreseeable consequence of a voluntary action is not enough by itself to entail a moral responsibility for filling the need. This means that pregnancy due to voluntary intercourse by itself cannot possibly create a moral responsibility to carry the fetus to

²⁶ See, for example, pages 287-290 of the following: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313. Some other examples include the following: Beckwith, Francis J. "Personal Bodily Rights, Abortion, and Unplugging the Violinist." *International Philosophical Quarterly* 32.1 (March 1992): 105-118. Lee, Patrick. "A Christian Philosopher's View of Recent Directions in the Abortion Debate." *Christian Bioethics* 10.1 (January-April 2004): 7-31.

term, so abortion is not wrong for the reasons claimed by the Responsibility Objection.²⁷

It is upon Thomson's argument and the Responsibility Objection that I focus my second chapter, where they will be explained in more detail.

The sets of arguments for these positions have, more or less, resulted in a stalemate in the literature. Those who defend the anti-abortion position do not find the pro-abortion arguments and replies convincing, and vice versa. The philosophical debate in the literature is currently a seemingly endless back-and-forth over these same influential arguments and usual replies with fairly minor variations. I will attempt to break this stalemate by showing that the landscape of the usual arguments is quite different from what most people think it is. There are several aspects of the usual arguments and objections that are overlooked, and examining these overlooked aspects in detail will show that several of the usual arguments and objections in the literature do not work. As such, focusing on these overlooked aspects of the usual arguments and objections and thereby forcing a reevaluation of the landscape of the usual arguments seems the best way to break the stalemate in the literature. In particular, I will argue in the second chapter that the Responsibility Objection is viciously circular and therefore does not present a problem for Thomson's argument. If this is correct, then Thomson's argument remains unimpugned and thus retains its full force, which gives us a good reason to believe that the pro-abortion position is true. I will argue in the third and fourth chapters that all three major anti-abortion proposals for which properties make killing us

²⁷ See, for example, the following: Boonin-Vail, David. "A Defense of "A Defense of Abortion": On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

wrong are either pro-abortion rather than anti-abortion or have clearly incorrect implications in cases other than abortion. If this is correct, then we have no good reason to believe that the anti-abortion position is true based upon these anti-abortion proposals.

1.3: Methodology

In keeping with the focus on breaking this stalemate in the literature, one important part of the methodology of this dissertation is to try, as far as possible, to work from generally accepted points. There are two kinds of generally accepted points, both of which are important. First, there are points whose truth should be fairly obvious to everyone. Second, there are points of agreement between the pro-abortion and anti-abortion positions. It seems to me that the more generally accepted a point is, the more likely it is that an argument based upon that point will break this stalemate in the literature. As David Boonin puts it:

A defense of abortion that proceeds on methodological terms that the critic of abortion rejects leaves the debate at a standstill. It reenforces [sic] the impression that the controversy over abortion arises from a simple clash of incommensurable viewpoints. It fails to address critics of abortion on their own terms. But a defense of abortion that succeeds on the critic of abortion's own methodological terms does none of these things. It justifies the claim that abortion, at least in typical cases, is morally permissible on terms that the critic of abortion can, indeed already does, accept. Only this kind of argument can contribute to resolving the abortion controversy...²⁸

If nothing else, a generally accepted point is less likely to be contentious. In line with this, I will try to leave as much as possible neutral between the pro-abortion and anti-abortion positions. Furthermore, because the conclusions that I am trying to establish support the pro-abortion position, if I do base arguments on points that are not neutral

²⁸ See page 14 of the following: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

between the pro-abortion and anti-abortion positions, then I will try to choose points that are favored by the anti-abortion position so as to make the conclusions as convincing as possible to as many people as possible.

Another important part of the methodology is that I will mostly argue from examples. These examples are selected in order to highlight details that are often overlooked in the literature. By doing so, I will show the importance of these details, which in turn will lead to showing that there are problems with various usual arguments and objections in the literature because they ignore these details. In addition to the benefits of arguing from examples for this particular dissertation, there also seems to be at least two good reasons for thinking that arguing from examples is a good general policy for arguments concerning the morality of abortion. The first reason is that arguing from examples is extremely common in the philosophical literature on abortion, to the point that it is difficult to think of any argument in the philosophical literature on abortion that does not rely heavily upon examples. This means that the acceptability of arguing from examples is generally accepted point and thus should not provide any grounds in and of itself to reject the arguments I make in this dissertation. The second reason is that rejecting or discounting arguments from examples simply because they are arguments from examples seems to lead to making easily avoidable mistakes. To see why, consider the following. Roughly speaking, there appear to be four main views on the relationship between examples and theory. First, you can take theory as primary, work out a theory, and then work down from the theory to the examples. Second, you can take examples as primary, work out reasoned responses to examples, and build up from the examples and responses to the theory. Third, you can balance examples and theory in reflective

equilibrium, going back and forth between the two and having each correct the other.

Fourth, you can take a pragmatic approach and simply use whichever of the two seems more helpful at a given time for solving a problem.

Only the first view provides a reason for rejecting or discounting arguments from examples simply because they are arguments from examples, since on the first view arguments from examples go against the entire methodology of working from the theory down to the examples while the other views require the active use of arguments from examples. I am personally inclined towards the third and fourth views, but more importantly I think that the first view should be avoided, at least when dealing with ethics. This is because I think the first view's methodology of taking the theory as primary makes it very difficult to recognize mistakes in an ethical theory. On the other views, if there is an example with which a given ethical theory cannot deal, then it is taken as evidence against that ethical theory and motivates adjusting the ethical theory to accommodate the example. If there are too many examples that a given ethical theory cannot accommodate, then the ethical theory is abandoned. After all, examples appear to be the only practical way to get at important differences that make a moral difference; in fact, using examples in this way – in other words, giving arguments from examples – appears to be the only practical way to test ethical theories. By contrast, if the ethical theory is taken as primary, then the importance of examples is downplayed and maintaining the core of the ethical theory is more important.²⁹ If this is correct, then taking the ethical theory as primary makes it much more likely that the only practical

²⁹ Think about it this way: if you take a theory as primary but do not downplay the importance of examples and instead use the examples to adjust the theory, then you would be using a form of reflective equilibrium.

tests of the ethical theory will be dismissed in order to maintain the core of the ethical theory, which in turn makes it very difficult to determine when the ethical theory needs to be adjusted or abandoned. In other words, using the methodology of the first view makes you much more likely to ignore evidence against your favored ethical theory and thereby much less likely to arrive at the truth.³⁰ I reject the first view because of this, and rejecting the first view provides a good reason to favor arguing from examples due to all of the other views being compatible with this methodology.

1.4: Judging the Abortion Debate

I would now like to turn to one final methodological question. That question is as follows: what is the correct manner in which to judge rationally the abortion debate? Initially, this question might seem strange. After all, the obvious answer would appear to be that the correct manner in which to judge rationally the abortion debate is the same as the correct manner in which to judge rationally any other philosophical debate. This means that you evaluate all of the currently available evidence for each position, in the form of arguments and reasons. The more and better the evidence for a position, the more likely it is that the position is correct and hence the more rational it is to hold the belief that the position is correct. If the evidence for one position clearly outweighs the evidence for any other position and is sufficient for rational belief in that position, then you hold that position to be the one most likely to be true. If the evidence is unclear, or a

³⁰ I do not believe that descriptions of examples are inevitably theory-laden; but, even if they are, I think that the above criticisms still hold. If an example appears to be possible but cannot be accurately described, much less accounted for, by a certain theory, then that should be taken as evidence against the theory in question. Since the first view denies the truth of this conditional strictly on principle, I think that is a good reason to reject the first view. In addition, questions about examples being theory-laden do nothing to address the point that arguments from examples are commonplace and widely accepted in the abortion literature. I would like to thank Dr. Mark Bernstein for raising this issue.

tie, or too close to call, or insufficient to warrant belief in any position, then you withhold judgment on which position is most likely to be true. In any case, you remain open to the introduction of new evidence, and you re-evaluate the body of evidence when new evidence is presented to see if your rational judgment about which position in the debate is most likely to be true needs to be adjusted.³¹ A good example of how this works that does not involve a philosophical debate is the board game Clue. If we have just started a game of Clue, then it is not rational for me to hold any particular belief about the solution to the case because I do not have enough evidence to show that any of the possible solutions is likely to be true.³² As the game continues and I acquire more evidence, this will change since some possible solutions to the case will become more likely to be true when other possible solutions are eliminated. Eventually there will be only one solution left, in which case I will be epistemically certain in my belief about the solution to the case.

In other words, in order to judge rationally a philosophical debate we need to assess the epistemic probability of all of the positions in the debate and then see if any are probable in order to determine which position, if any, it is rational to hold to be true.³³ If

³¹ This is not meant to be an endorsement of evidentialism or any other epistemic theory. I simply find expressing what constitutes rational judgment in terms of evidence to be helpful and convenient. As far as I can tell, any epistemic theory can fit into this framework, it is just that different theories will end up with different views of what counts as evidence and what does not.

³² Of course, based upon the cards I am dealt, I will be in a position to have an epistemically certain belief that some particular solutions to the case do not obtain. Also, I may be in a position to have an epistemically likely or even certain belief in a part of the solution to the case. For example, if I am dealt all of the weapon cards that are not in the solution envelope, then I can have an epistemically certain belief about the correct weapon. The point is that in a fair game of Clue you cannot have an epistemically likely belief in the *entire* solution to the case at the start.

³³ Keep in mind that the current discussion is a discussion of epistemic probability, and does not say anything about ontological or modal issues. For example, I am not assuming that moral claims are contingent. In fact, personally, I believe that all moral truths are necessary truths. Nonetheless, I can be wrong about *which* moral claims are necessarily true and which are necessarily false, and this is a matter of epistemic probability. I would like to thank Dr. Martin Curd for pointing out the need for this clarification.

one position is epistemically likely on an analysis of all of the available evidence, then rationally we should believe that that position is the most likely to be true. If no position is epistemically likely, then rationally we should withhold belief altogether about which position is most likely to be true. Indeed, this seems to be the way in which the abortion debate is actually judged in real life. Most people, including philosophers, think that arguments for one of the positions in the abortion debate are correct, or at least outweigh those of the other position, and are therefore either pro-abortion or anti-abortion. We would think that there was something strange going on if, for example, a person thought that the pro-abortion position was most likely true while at the same time he or she thought that the only arguments in the debate that worked were arguments for the anti-abortion position.

The question of what is the correct manner in which to judge rationally the abortion debate needs to be asked because the obvious answer described above has been challenged in the philosophical literature on abortion. Instead, it has been argued that the correct manner in which to judge rationally the abortion debate is to begin by going out of our way to avoid the grave harm inflicted by abortion if the anti-abortion position is correct, because it is not morally justifiable to risk inflicting grave harms due to uncertainty. This is called the Benefit of the Doubt Argument, and it is defended most thoroughly in the philosophical literature on abortion by Francis Beckwith. He gives the basic outline of the argument as follows:

If one killed an entity without knowing whether the entity killed (in this case, the unborn) is either fully human with a full right to life or a potential person with a high moral status, it would be negligent to proceed with the killing, since there is a strong possibility that one is killing a being of great moral significance. ... Ignorance of a being's status is certainly not justification to kill it. This is called the benefit of the doubt argument, since we are giving the unborn the benefit of the doubt.³⁴

He gives us the following story to illustrate his point:

A thirty-six-year-old woman with four children, worn down and exhausted by poverty and terrible living conditions, married to an alcoholic husband, finds herself pregnant. Although not the sole source of income for her family, the woman does work and her income is desperately needed. After wrestling with her predicament, the woman is approached by a wealthy benefactor who presents to her the following proposition: "If you detonate the building across the street, which I own, I will pay you \$25,000 a year for the next 20 years, adjusting the sum every year in accordance with inflation and the cost of living, and provide you a housekeeper free of charge (this will, of course, more than make up for the burden another child places on the family). However, there is one catch: there is a 1 in 10 chance that in the basement of this building there is a perfectly healthy and innocent eight-year-old child. Thus you run the risk of killing another human being. Is your personal well-being worth the risk?"

If the woman decides to blow up the building, I believe that few if any would judge her actions as morally justified. Even if the odds were 1 in 100, it would seem incredible that anyone would even consider the risk of killing another human being so insignificant that she would take the chance.³⁵

The Benefit of the Doubt Argument is, in effect, an argument about epistemic probabilities and the burden of proof in the abortion debate. A good way to compare the usual answer and the answer given by the Benefit of the Doubt Argument is to compare them to the different types of burden of proof used in courts of law in the United States. The usual answer, which says that we should judge the abortion debate by seeing which

³⁴ See pages 92-93 of the following: Beckwith, Francis J. *Politically Correct Death: Answering Arguments for Abortion Rights*. Grand Rapids: Baker Books, 1993.

³⁵ See page 93 of the following: Beckwith, Francis J. *Politically Correct Death: Answering Arguments for Abortion Rights*. Grand Rapids: Baker Books, 1993. Beckwith makes the same point with a different example on pages 30-31 and 60-62 of the following: Beckwith, Francis J. *Defending Life: A Moral and Legal Case against Abortion Choice*. New York: Cambridge University Press, 2007.

side has the best arguments, recommends a burden of proof similar to that used in civil court cases. In a civil suit, the burden of proof is usually stated as follows: “has the plaintiff demonstrated that they are correct based on a preponderance of the evidence?” In other words, the winning side of a rationally decided civil suit should be the side that is most likely to be correct when all available evidence has been considered, and the most likely correct position in the abortion debate should be decided in the same way.³⁶ The Benefit of the Doubt Argument, which says that we should judge the abortion debate by ensuring that we avoid making mistakes that can cause grave harm, recommends a burden of proof similar to that used in criminal court cases. In a criminal trial, the burden of proof is usually stated as follows: “has the prosecution demonstrated that the defendant is guilty beyond a reasonable doubt?” In other words, the prosecution should be the winning side of a rationally decided criminal trial if and only if practically all of the evidence is in the prosecution’s favor. Likewise, the pro-abortion position should be considered the most likely correct position in the abortion debate if and only if practically all of the evidence supports the pro-abortion position.

³⁶ Technically, this is a bit more complicated than it first looks. In a civil suit, “preponderance of the evidence” actually means “more likely than not” rather than “most likely to be correct.” Since there are only two sides in a civil suit, “more likely than not” and “most likely to be correct” should amount to the same thing in that circumstance for two reasons. First, all relevant court evidence can only support one side or the other, and the court must hold that one side is correct. Second, the side that is most likely to be correct must be more likely than not since the “not” is the opposing side of the suit. The complication comes when we compare this to the abortion debate, which has three major positions (pro-abortion, anti-abortion, and agnostic) each of which has several variations. In this case “more likely than not” and “most likely to be correct” need not be the same thing, such as if the position with the most evidence (most likely to be correct) does not have enough evidence to make it overall likely or even a rational belief. The usual answer would hold that the abortion debate should be judged in favor of either the pro-abortion position or the anti-abortion position if and only if one of the positions is both more likely than not and most likely to be correct, with the agnostic position being held in any other case. It is not an exact parallel, but the example should still help to get a grasp on the difference between the usual answer and the Benefit of the Doubt Argument. I would like to thank Dr. Martin Curd for raising this point.

I think that both the usual answer and the Benefit of the Doubt Argument are incorrect. This is because I think that in all debates over the moral permissibility or wrongness of an action the burden of proof should always start on the position that argues for moral wrongness. There are three main reasons for thinking this. First, there is the widespread ethical intuition that if an action is morally wrong then there must be a specific reason why that action is morally wrong, such as that it causes certain harms or violates certain rights. There does not appear to be a corresponding intuition that if an action is morally permissible then there is a specific reason why that action is morally permissible other than that it does not appear to be morally wrong. This indicates that the position that argues for moral wrongness requires more evidence to justify belief in the truth of the position, which just is to say that the burden of proof starts on the position that argues for moral wrongness. Second, there are many more morally permissible actions than morally wrong actions that are actually performed by moral agents in our experience, which means that the position that argues for moral wrongness is statistically more likely to be incorrect and so requires more evidence to justify belief in the truth of the position. Third, assuming that the burden of proof should always start on the position that argues for moral permissibility implies that ethical reasoning, along with everything else, is more likely to be morally wrong before we examine any particular evidence, reasons, or arguments. We are supposed to avoid performing morally wrong actions, which means that we should avoid performing any ethical reasoning or any other action until and unless we have good reason to think that said action is morally permissible. But providing good reason to think that any action is morally permissible requires using ethical reasoning, yet ethical reasoning itself must be avoided until and unless we can use

ethical reasoning to provide these good reasons for thinking it morally permissible. This is an impossible condition to meet, with the result that no actions should ever be taken. As this is clearly wrong, the burden of proof must always start on the position that argues for moral wrongness.

I will assume for the sake of this dissertation that it is false that the burden of proof should always start on the position that argues for moral wrongness. There are two important reasons for this. First, giving a good defense of why we should think it is true would take too much time and would end up being a distraction. A good defense would require, at minimum, an in-depth discussion of Bayesian prior probability, how to apply Bayesian reasoning to ethical arguments, the common structures of all ethical reasoning, and much more. Second, having the burden of proof start on the position that argues for moral wrongness obviously favors the pro-abortion position. After all, the pro-abortion position is the position arguing for moral permissibility in the abortion debate, so the burden of proof would start on the anti-abortion position. This goes against the methodology of this dissertation, in particular the methodology of choosing points that favor the anti-abortion position as far as possible so as to make the conclusions as convincing as possible to as many people as possible. As a result, I will assume that the burden of proof does not start on the anti-abortion position. This assumption is not enough to tell us whether the usual answer, where the burden of proof does not start on either position, or the Benefit of the Doubt Argument, where the burden of proof always starts on the pro-abortion position, is correct. So, let us now turn to the Benefit of the Doubt Argument in more detail.

In standard form, the Benefit of the Doubt Argument is roughly as follows:

- 1) If one position in a debate might lead to the inflicting of grave harm should it be believed to be true but is actually false, then that position should be believed to be true only if the evidence is overwhelmingly in its favor.
 - 2) The pro-abortion position might lead to the inflicting of grave harm should it be believed to be true but is actually false.
 - 3) The pro-abortion position should be believed to be true only if the evidence is overwhelmingly in its favor.
 - 4) The evidence is not overwhelmingly in favor of the pro-abortion position.
- C) The anti-abortion position should be believed to be true.

While this argument may initially sound plausible, I think that there are at least two categories of reasons to reject it and accept the usual answer instead. First, there are good reasons to think that premise (4) is false. Second, there are good reasons to think that premise (1) is false. If we have good reasons to think that either premise is false, then the argument fails, in which case we have good reason to accept the usual answer over the flawed Benefit of the Doubt Argument. Let us consider each of these categories of reasons in order.

There are at least two good and related reasons to think that premise (4) is false. First, it is not clear what exactly counts as the evidence being overwhelmingly in favor of a position and therefore not clear that premise (4) is true. Does 60% of the evidence being in favor of a position count as overwhelming? How about 75%, or 90%, or 99%? This is not immediately obvious, at any rate. Now, it is clear that there is a point at which having too much doubt about the permissibility of an action while acting anyway is

morally unjustifiable recklessness in almost any situation. Surely it is the case that risking an innocent life on completely ambiguous evidence that goes equally in every direction is almost certainly mistaken, for example. After all, this would be the equivalent of risking an innocent life on a coin flip for no good reason, which is clearly morally wrong. Likewise, it is also clear that there is a point less than absolute certainty where there is some level of risk that an action may kill a person that is not only not morally unjustifiable recklessness, but morally permissible. The reason for this is as follows. If there were not some level of risk of killing a person – other than no risk whatsoever – that was morally permissible, then it must be the case that any risk of killing a person would make an action morally wrong. After all, claiming that any action that carries any risk of killing a person is morally wrong is equivalent to the claim that there is no morally permissible level of risk. But all actions have some risk, however remote, of killing a person through Rube-Goldberg-like unintentional, unforeseen, and unforeseeable reactions. For example, your reading of this sentence carries just such a risk, since it is possible that a mad scientist has set up a bomb that will detonate and kill a person once it has detected through a remote sensor that you have finished reading this sentence. I do not know what the exact odds of your reading of the previous sentence killing a person are, but as incredibly low as the odds must be it is nonetheless a risk. This type of example can be generalized for any action. As a result, this would effectively make every action morally wrong. As this is clearly not the case, there must be some level of risk that is morally permissible. How do we figure out where to draw the line?

Beckwith suggests that overwhelming evidence is the evidence being at least 90% and probably over 99% in favor of the pro-abortion position in the context of the abortion debate. This is because Beckwith thinks that an action that has a 1 in 10 or even a 1 in 100 chance of killing an innocent person is morally unjustifiable recklessness that must be avoided.³⁷ There is good reason to think that Beckwith is setting the bar way too high. This is because we take actions, aside from abortion, that are widely regarded as morally permissible that nonetheless pose an actual real life risk of killing another human being comparable to Beckwith's example. Two examples to consider are driving cars in the present day and having children in the past. Let us start with driving cars. The lifetime odds of any given person dying from a motor vehicle accident – the odds that a motor vehicle accident will be any given person's cause of death – are approximately 1 in 84.³⁸ This is higher than the 1 in 100 risk of killing a person that Beckwith apparently considers morally unjustifiable recklessness, and it could easily be eliminated or drastically lowered by never driving.³⁹ Yet it does not seem that driving is in and of itself morally wrong, despite the risk involved. Now, consider the example of having children. Childbirth has only recently become a fairly safe medical procedure. Even as late as World War I, giving birth had approximately 1 in 100 odds of killing the mother, with

³⁷ See page 93 of the following: Beckwith, Francis J. *Politically Correct Death: Answering Arguments for Abortion Rights*. Grand Rapids: Baker Books, 1993.

³⁸ National Safety Council. "The odds of dying from..." <<http://www.nsc.org/research/odds.aspx>>. Accessed on 20 August 2009. Insurance Information Institute. "Causes of Death." <http://www.iii.org/factbook/losses/home_accidents/>. Accessed on 20 August 2009.

³⁹ Note that these lifetime odds are for dying in a motor vehicle accident and not just for killing someone else in an accident. The latter would be a lower figure since the former includes deaths from single-vehicle accidents. I think that this is irrelevant for the point I am making for two reasons. First, if you can put yourself in morally unjustifiable risk of losing your life, then the figure is still 1 in 84. I suspect that Beckwith holds the antecedent of this conditional to be true. Second, the figure should still be high enough that Beckwith must explain why having an abortion is morally unjustifiable recklessness while driving is not in spite of having roughly comparable risk factors for killing an innocent person. I would like to thank Dr. Martin Curd for pointing out the need for clarification here.

lifetime odds for women dying from complications of childbirth reaching as high as 1 in 8. Keep in mind that this is in medically advanced industrialized nations: even in the present day, women in poor nations can and do face even higher odds.⁴⁰ Does this mean that people who have sex outside of present-day advanced nations are committing a moral wrong? It seems difficult to justify claiming, for example, that every single person who lived before the Great Depression and tried to raise a family was committing a grave moral wrong, yet if Beckwith's analysis is correct then it seems as if this is the position to which one must be committed.

Beckwith might respond without biting the bullet and accepting the implausible and unconvincing position that driving and having sex outside of present-day advanced nations runs such a high risk of killing someone that they ought to be banned just like abortion ought to be banned. The most plausible response on Beckwith's behalf seems to be to claim that the situations are vastly different in that, while all involve a similar chance of death, only abortion involves choosing to directly kill a being that may have a right to life. It is this risk – the risk of committing murder – that is too high, not the risk of killing a being with a right to life by itself. As a result, the parallels to the Benefit of the Doubt Argument that involve driving and childbirth are not close enough to be relevant: the same amount of risk may be involved in each, but the amount of risk of

⁴⁰ Mintz, S. "Childbirth in Early America." *Digital History*.
<http://www.digitalhistory.uh.edu/historyonline/childbirth.cfm>. Accessed on 20 August 2009. Sullivan, Kevin. "A Mother's Final Look at Life: In Impoverished Sierra Leone, Childbirth Carries Deadly Odds." *Washington Post*. <http://www.washingtonpost.com/wp-dyn/content/article/2008/10/11/AR2008101102165.html>. Accessed on 20 August 2009. Smith, Stephen W. "More U.S. Women Dying In Childbirth." http://www.cbsnews.com/stories/2007/08/24/health/main3202083.shtml?source=RSSattr=HOME_3202083. Accessed on 20 August 2009.

murder involved in abortion is high enough to be morally unjustifiable recklessness while the amount of risk of death involved in driving and childbirth are low enough to be morally justifiable.

I do not think that this response works. In particular, I think that this response misconstrues what is at risk in having an abortion. A rational moral agent who decides to get an abortion must rationally hold either that a fetus does not possess a right to life or that there is a mitigating factor that makes a fetal right to life irrelevant in this case. A rational moral agent who did not rationally hold one or both of these views must instead rationally hold that a fetus possesses an unmitigated right to life, which entails that abortion is murder and would thereby prevent said rational moral agent from getting an abortion. This means that a rational moral agent who decides to get an abortion is not risking committing murder because there is no intent to kill a being with an unmitigated right to life. An example of a risk of committing murder would be more like voluntarily playing Russian Roulette where you shoot the person across from you when you get the gun. Getting an abortion is much more like driving a car or carrying a child to term: the act is committed with a good and rational intent, but other factors that may well be beyond the agent's control or knowledge could have the act end up unintentionally killing a being with a right to life. As such, the parallel still holds. If abortion has such a high risk of unintentionally killing a being with a right to life that it is morally unjustifiable recklessness, then driving and having sex outside of present-day advanced nations should be treated the same way.

As a result of the above and using both examples of driving cars and having children, we can see a problem with the Benefit of the Doubt Argument if we replace “pro-abortion position” in the above standard form of the argument with “pro-driving position” or “pro-childbirth position,” where these positions say that driving and childbirth, respectively, are generally morally permissible. In these cases premise (2) – that the position might lead to the inflicting of grave harm should it be believed to be true but is actually false – is clearly true because driving and childbirth does lead to increased death as shown above. Assuming that premise (1) is true, it follows that premise (3) is also true since it follows from (1) and (2) by modus ponens. This means that the only way to avoid the silly and clearly incorrect conclusions that driving and having children outside of present-day advanced medical facilities are morally wrong actions is to reject premise (4). But if premise (4) is most likely false for these cases, why should we think it is true for the pro-abortion position? There does not appear to be any good reason to believe this. This gives us a good reason to reject premise (4): the pro-abortion position may well have overwhelming evidence in its favor since what counts as overwhelming evidence is much lower than what Beckwith claims. The second and related reason for thinking that premise (4) is false is that there are no reasons given to think that the evidence is not overwhelmingly in favor of the pro-abortion position even if Beckwith is correct about what counts as overwhelming evidence in this case. If a person’s rational analysis of the abortion debate comes to the conclusion that there are no good arguments for the anti-abortion position and several for the pro-abortion position, and this rational analysis is correct or at least extremely likely given the evidence available to the person, then it would seem that the person has a good reason to reject premise (4). In fact, this

sort of situation is probably the rule rather than the exception given the polarization of the abortion debate: there are not many abortion agnostics or people who think that one of the positions just barely edges out the other position.

There are also two good and related reasons for thinking that premise (1) is false. Remember that premise (1) is as follows: if one position in a debate might lead to the inflicting of grave harm should it be believed to be true but is actually false, then that position should be believed to be true only if the evidence is overwhelmingly in its favor. First, premise (1) appears to be clearly false when applied outside of the abortion debate. The examples given above of driving and childbirth seem to work here as well: it does not seem to follow from the fact that the actions involved in these examples might lead to grave harms that the burden of proof should be altered. Another example would be the following. Imagine that you are about to chop down a tree in your backyard because its roots are damaging the foundation of your house. All of a sudden a Jain or an animist approaches you and claims that you are killing a person, or the equivalent of a person, because you are killing a being with a soul that is just like you as regards what makes murder wrong. The person then says, "In addition, even if you do not accept my reasoning, you may be wrong and I may be right. If I am right, then you are killing a person. Since killing a person is a grave moral wrong, you should not chop down the tree if there is even a 1 in 100 chance that I may be right in order to give the tree the benefit of the doubt." I highly doubt that anyone would accept such an argument, and it seems that the reason why is because there is no good reason to think that a possibility of being wrong and thereby causing grave harms implies that we need to shift the burden of proof in any way.

The most plausible response to this on Beckwith's behalf appears to be to claim that there is much more evidence for the anti-abortion position than there is for the position of the Jain or animist, and that this is what explains why we do not accept the argument of the latter but should accept the Benefit of the Doubt Argument. In other words, the Benefit of the Doubt Argument's premise (1), which says that if one position in a debate might lead to the inflicting of grave harm should it be believed to be true but is actually false, then that position should be believed to be true only if the evidence is overwhelmingly in its favor, is best read as starting with "if one plausible position in a debate..." or something similar. This would appear to give at least some reason to rule out the argument of the Jain or animist as a relevant parallel with the Benefit of the Doubt Argument while leaving its application to the abortion debate intact.

I do not think that this response works for at least two reasons. The first reason is that it is assuming that the anti-abortion position is plausible. The anti-abortion position may or may not be plausible, and this may vary depending upon how it is defended, but that is something to be shown with arguments and not assumed from the beginning in any case. It appears to be some form of question-begging or special pleading to assume that the anti-abortion position is plausible, and then use that assumption along with the Benefit of the Doubt Argument to try to establish that the anti-abortion position should be believed to be true. The second reason is that there is no good reason for thinking that we should limit the scope of premise (1) of the Benefit of the Doubt Argument only to plausible positions. The entire point of the Benefit of the Doubt Argument is to claim that if a given position in an ethical debate comes with a risk of committing a moral wrong should you be incorrect about your assessment of the debate, then this is enough to

warrant believing that this given position is incorrect barring extraordinary evidence to the contrary. In other words, it is the risk that is given as the main reason for accepting this analysis of how to judge an ethical debate, and all of Beckwith's examples and defenses are focused upon it as such.⁴¹ If it is not really the risk that is important but rather the plausibility of the position, then why not just argue that the anti-abortion position is the most plausible position in the abortion debate and therefore having an abortion is actually killing a being with a right to life instead of merely risking doing so? As a result, this limitation of the scope of premise (1) appears to be *ad hoc* and should be rejected.

In any event, the second good reason for thinking that premise (1) is false is that premise (1) seems to make many ethical debates practically impossible to resolve. To see why, consider the following. It is often argued in the popular pro-abortion literature that the anti-abortion position leads to the inflicting of grave harms should it be believed to be true but is actually false, such as disregarding women's rights and increasing misogyny. If premise (1) is true, then it follows that the anti-abortion position should be believed to be true only if the evidence is overwhelmingly in its favor. Since, if true, premise (1) would also show that the pro-abortion position requires overwhelming evidence, it seems to follow that the abortion debate cannot be practically resolved because it requires overwhelming evidence for one side alone to avoid agnosticism. Any other ethical debate falls into the same trap if it can reasonably be thought that each position might lead to grave harms if it is incorrectly believed. This may well be all meaningful ethical

⁴¹ See, for example, page 93 of: Beckwith, Francis J. *Politically Correct Death: Answering Arguments for Abortion Rights*. Grand Rapids: Baker Books, 1993. See also pages 30-31 and 60-62 of: Beckwith, Francis J. *Defending Life: A Moral and Legal Case against Abortion Choice*. New York: Cambridge University Press, 2007.

debates over the moral permissibility or wrongness of an action, since the permissibility position leads to the committing of wrong actions if it is mistaken and the wrongness position leads to the unjust restriction of human liberty if it is mistaken. As this is clearly not the case, this gives us a good reason to reject premise (1). For all of these reasons given above, it appears that the Benefit of the Doubt Argument does not work. The only remaining option is to adjudicate the abortion debate based upon a thorough rational analysis of the evidence in the form of arguments and reasons.

1.5: Conclusion

If we are to rationally judge the abortion debate based upon a thorough rational analysis of the evidence in the form of arguments and reasons, then we must examine the various arguments for and against each side of the abortion debate to have any hope of ever resolving it. The remaining chapters of this dissertation examine some of the most widely defended and powerful arguments for each side of the abortion debate, as well as several of the most important objections to each of these arguments. As a whole, the remaining chapters of this dissertation will attempt to show that several commonly accepted and defended arguments in the abortion debate do not in fact work. If this is correct, then we need to re-evaluate the abortion debate in light of this new evidence, and it is to this project that we now turn.

CHAPTER 2: COMING FULL CIRCLE:
THOMSON'S PRO-ABORTION ARGUMENT, THE RESPONSIBILITY
OBJECTION, AND CIRCULAR REASONING

My second chapter will give new analyses of one of the most important pro-abortion arguments and the most important anti-abortion response to it, namely the pro-abortion argument of Judith Jarvis Thomson and the anti-abortion response of the Responsibility Objection. If my arguments are correct, then they will show that the current pro-abortion position is much stronger than is currently believed because the Responsibility Objection is circular and therefore does not show any problem with Thomson's pro-abortion argument. The second chapter develops this new response to the Responsibility Objection and addresses some possible objections, and it is to this that we now turn.

2.1: Thomson's Pro-Abortion Argument

Judith Jarvis Thomson begins setting up her pro-abortion argument by noting that most of the philosophical literature on abortion at the time – and this appears to still be the case – focuses almost exclusively upon the question of whether or not a fetus is a person. In other words, the focus of the abortion debate is on whether or not fetuses have

the same property or properties that make killing an innocent adult morally wrong.⁴² Everyone agrees that women have a right to bodily integrity, and that abortion kills a fetus. Defenders of the anti-abortion position mostly argue that a fetus does have the same property or properties that make killing us wrong, and it therefore follows that abortion is wrong regardless of women's right to bodily integrity. Defenders of the pro-abortion position mostly argue that a fetus does not have the same property or properties that make killing us wrong, and it therefore follows that abortion is permissible because of women's right to bodily integrity.⁴³ Thomson then notes that very little if anything is said by defenders of the anti-abortion position about exactly how abortion being wrong follows from a fetus having the same property or properties that make killing us wrong. This implication is important to understand in detail since it is necessary for the usual defense of the anti-abortion position to work. So, Thomson assumes for the sake of argument that a fetus has the same property or properties that make killing us wrong, and then asks how one can get from there to the conclusion that abortion is morally wrong. The answer is going to be, more or less, one of the versions of the main anti-abortion argument: it is wrong to kill us because we have some property or properties X, so we know that if a being has X then it is wrong to kill that being; fetuses have X, and abortion kills fetuses; therefore, abortion is morally wrong.⁴⁴

⁴² Remember that, for the purposes of this dissertation, the terms "morally wrong," "morally permissible," and the various shorthand versions and derivatives thereof all have an implied "generally or prima facie" in front of them.

⁴³ See pages 47-48 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

⁴⁴ See page 48 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

Thomson notes that this may seem plausible at first, but there is a problem here. This is where Thomson's famous violinist example comes into play. You wake up one morning to find a famous violinist attached to you. The violinist is unconscious and plugged into your kidneys. It turns out that you were kidnapped during the night and turned into a living kidney dialysis machine by a group of the violinist's biggest fans, who did this without the knowledge or consent of either you or the violinist. They did this because through their research they discovered that you are the only person who can save the violinist from an otherwise fatal kidney disease, and doing so requires the violinist be plugged into your kidneys for nine months. Thomson claims that while it would certainly be generous and kind of you to allow the violinist to remain attached to your kidneys, you are not morally obligated to allow the violinist to remain attached to your kidneys. In fact, we would find it morally wrong and repulsive should someone force you to remain attached. For example, a doctor who came to you in this situation and told you "too bad for you, you've got to let the violinist remain attached no matter what because the violinist is a person" would appear to be missing the point, namely that you have a right to bodily integrity that allows you and you alone to decide how to use your body when you are under no moral obligation, and you are under no moral obligation to the violinist. After all, it is *your body*.⁴⁵ This becomes even clearer if we make the requirements for saving the violinist even more severe, such as remaining attached for years, remaining attached for life, having the attachment make you bedridden, having the attachment shorten your own life, and so forth. The main point of

⁴⁵ See pages 48-49 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

the violinist example is that it appears obvious that you are not morally obligated to allow the violinist to remain attached to your kidneys. After all, there is nothing in the violinist example that would imply that you had such an obligation, while you clearly have a right to bodily integrity. This in turn implies that you do nothing wrong by unplugging the violinist, but rather are doing something morally permissible, namely exercising your right to bodily integrity. Yet the violinist is indisputably an innocent human adult, or in other words a person who has whatever property or properties that make killing us wrong. Furthermore, unplugging the violinist is killing the violinist: it is an action that intentionally and directly results in the violinist's death.⁴⁶

Before she gets to her analysis of the violinist example, Thomson notes that it indicates one interesting possible problem with the main anti-abortion argument. Remember that according to the main anti-abortion argument, it is wrong to kill us because we have some property or properties X. Since fetuses also have X, it is also wrong to kill them, so abortion is wrong. Nonetheless, most defenders of the anti-abortion position want to allow that, while the overwhelming majority of abortions are morally wrong, there are some exceptions that are morally permissible. The most frequent exceptions are abortions to save the life of the mother and abortions for pregnancies caused by rape. There is a problem here: whether or not a fetus was conceived by rape or causes a life-threatening pregnancy is completely irrelevant to whether or not the fetus has X. This seems to indicate that these exceptions cannot be made if the main anti-abortion argument works. There seem to be two ways around this

⁴⁶ See pages 48-49 and 54-55 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

problem that do not involve rejecting the main anti-abortion argument. The first way is to bite the bullet by accepting the main anti-abortion argument and not allow any exceptions. The second way is to alter the main anti-abortion argument so that this problem is avoided. Thomson then points out that the first way is almost certainly incorrect for several reasons. First, it is required to say that you must stay attached to the violinist in the violinist example no matter what, because the violinist has X so it is wrong to kill the violinist. Second, it is required to say that you may never kill a person in self-defense since all people have X. Third, and related to the other two, it does not take the right to bodily integrity seriously since it flatly denies, for example, that a woman with a life-threatening pregnancy may have an abortion even though she has X just as much as the fetus in addition to the fact that it is her body that houses the pregnancy. Thomson thinks that these reasons are decisive, which means that the only way left is the second way. How can the main anti-abortion argument be altered so that this problem is avoided? As it turns out, Thomson thinks that this can be seen by finishing her analysis of the violinist example.⁴⁷

Remember that the interesting part of the violinist example that must be explained is that unplugging the violinist is a morally permissible exercise of your right to bodily integrity, while at the same time the violinist is indisputably an innocent human adult who has whatever property or properties that make killing us wrong and unplugging the violinist is killing the violinist. How can it be morally permissible to kill a being that has the same property or properties that make killing us wrong, or in other words, how can it

⁴⁷ See pages 49-54 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

be morally permissible to kill a being with X? Answering this question requires analyzing what exactly is entailed by having X. The broadest interpretation of having X is that having X entails a right to the minimal requirements for survival. This interpretation cannot be correct because the minimal requirements for someone's survival may be things to which that person clearly has no right. Thomson's example to demonstrate this is the disease of Fonditis: someone who contracts Fonditis will die unless they are touched by Henry Fonda. It does not appear to be the case that the existence of Fonditis would entail that Henry Fonda is morally obligated to spend his life healing Fonditis victims, even though it would be very nice if he would.⁴⁸ Likewise, it does not appear to be the case in the violinist example that you are morally obligated to spend your life attached to the violinist simply because you are the only one who can save his or her life. It therefore seems that having X does not entail a right to even the minimal requirements for survival, at least if the minimal requirements involve the use of another's body.⁴⁹ A stricter interpretation of having X is that having X entails a right not to be killed. This interpretation cannot be correct because we have clear counterexamples where a being has X and is killed but the killing is morally permissible. For instance, it appears that in the violinist case it is morally permissible for you to kill the violinist, and it is a generally accepted point that it is morally permissible for you to kill an attacker in

⁴⁸ Compare this to the real disease of cancer. Perhaps only the world's smartest doctor can discover the cure for cancer, but this fact in and of itself does not place a moral obligation on this doctor to be a cancer researcher. It would be great if the doctor would become a cancer researcher, but if he or she would rather be a brain surgeon instead then he or she is not doing anything wrong.

⁴⁹ See page 55 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

self-defense. This shows that there is no right not to be killed *simpliciter*, since if there were such a right it would be violated in these cases and violating a right is morally wrong.⁵⁰

An even narrower interpretation of having X is that having X entails a right not to be killed unjustly. This interpretation appears to avoid all of the problems with the wider interpretations. It does not have a problem with self-defense cases: you do not act unjustly in saving your own life, so killing someone in self-defense is not an unjust killing and is therefore morally permissible. It does not have a problem with the Fonditis case: it is not unjust for Henry Fonda to refrain from touching people, so refraining from touching him or her is not an unjust killing and is therefore morally permissible. Most importantly, it correctly explains the violinist case. The violinist has no right to the use of your kidneys – there is nothing in the example to grant or provide for such a right – and so you do not act unjustly by unplugging yourself from the violinist. As a result, unplugging yourself from the violinist is morally permissible even though it kills the violinist. Even though the violinist is indisputably an innocent human adult who has whatever property or properties that make killing us wrong and unplugging the violinist is killing the violinist, unplugging the violinist is a morally permissible exercise of your right to bodily integrity because the violinist has no right to the use of your kidneys and therefore is not treated unjustly if unplugged from your kidneys.⁵¹

⁵⁰ See pages 55-56 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

⁵¹ See pages 55-57 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

Thomson then returns to her original question: assuming for the sake of argument that a fetus has the same property or properties that make killing us wrong, how can we get from there to the conclusion that abortion is morally wrong? The usual anti-abortion answer to this question is one of the versions of the main anti-abortion argument: it is wrong to kill us because we have some property or properties X, so we know that if a being has X then it is wrong to kill that being; fetuses have X, and abortion kills fetuses; therefore, abortion is morally wrong. The violinist case shows us that this usual anti-abortion answer cannot work as it stands. It does not follow from fetuses having X and abortion killing fetuses that abortion is morally wrong. Rather, abortion being morally wrong only follows from fetuses having X and abortion *unjustly* killing fetuses.⁵²

Thomson then points out that this second point has not been shown: the main anti-abortion argument gives us no reason to think that abortion is an unjust killing. An additional argument is required, and without it the main anti-abortion argument fails.⁵³

Thomson thinks that this additional argument is not forthcoming, and as a result we have good reason to believe that the main anti-abortion argument fails and abortion is morally permissible. She thinks that this additional argument is not forthcoming because there are several examples that are relevantly analogous to pregnancy in which killing the being that is analogous to the fetus appears to be just and therefore morally permissible. Since a successful argument that abortion is an unjust killing would also be an argument that the analysis of these examples is wrong, and the analysis of these examples appears

⁵² On Thomson's usage of terminology only unjust killings are morally wrong. A being that lacks X cannot be unjustly killed, and therefore killing a being that lacks X cannot be morally wrong. A being that has X can be killed in both just and unjust ways, and only the unjust killings are morally wrong. I would like to thank Dr. Mark Bernstein for pointing out the need for this terminological clarification.

⁵³ See pages 56-57 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

to be correct, there is good reason to think that there cannot be a successful argument that abortion is an unjust killing. The first example is the violinist case, which is meant to be relevantly analogous to pregnancy that was caused by rape. This is because in both cases someone – either you or the pregnant woman – was forced against his or her will into the situation where another’s life – that of either the violinist or the fetus – depends upon his or her bodily functions. As explained above, killing the violinist appears to be morally permissible, which in turn indicates that abortion of a pregnancy due to rape is not an unjust killing of the fetus and therefore morally permissible.⁵⁴

The second example is the open window case. In the open window case, you are in your home and decide that it would be pleasant to open one of your windows. When you do, someone enters your home through the open window. Regardless of who enters your home, whether it is a criminal intent on robbing you or an innocent bystander accidentally stumbling through the window, that person does not have a right to remain in your home just because your window was open. This is even clearer if your window had a grate covering it or had other security measures that would normally prevent any person from entering your home through the window, but a manufacturing mistake allowed people through the window anyway. As a result, since you have a right to decide who remains in your home, it is not unjust to remove the person from your home even if it would kill the person. The third example is the people-seed case. In the people-seed case, there are people-seeds in the air. These seeds take root only in carpets, and when they grow the resulting plant produces a child. These seeds are easily filtered out by

⁵⁴ See pages 57-58 of: Thomson, Judith Jarvis. “A Defense of Abortion.” *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

standard window screens, which you have installed on all of your windows. You decide that it would be nice to open one of your windows, but due to a defect in the screen a seed enters your home and takes root in the middle of your living room carpet. The child-plant does not have a right to remain in your home just because your window was open. Since you have a right to decide who remains in your home, it is not unjust to tear out the child-plant.⁵⁵

Both the open window case and the people-seed case are meant to be relevantly analogous to pregnancy that was caused by contraceptive failure. The home is analogous to the woman's body, the window screens or other security is analogous to using contraception, and the person or child-plant remaining in the home is analogous to pregnancy.⁵⁶ The open window case is also meant to be relevantly analogous to pregnancy that was caused by a failure to use contraception in the first place when you open the window for fun when you know that there are criminals out there and your window has no security. If killing the person or child-plant by removing them from your

⁵⁵ See pages 58-59 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

⁵⁶ One might argue in the open window case and the people-seed case that, while you might have a right to decide who remains in your home, it is disproportionate and therefore unjust to remove someone when doing so would be lethal. An example of someone who suggests this in the literature is John Martin Fischer. See, for example, pages 288-291 of: Fischer, John Martin. "Abortion, Autonomy, and Control Over One's Body." *Social Philosophy & Policy* 20.2 (Summer 2003): 286-306. Thomson argues that such a view ignores or misunderstands what it means to have a right to decide who gets to use something. For example, imagine that Smith and Jones both need a coat that Smith owns. You do not think that Smith's ownership of the coat means much of anything if you are willing to say "of course Smith owns the coat, but Jones is the one who should get to use it instead of Smith" in any circumstance. The case is even stronger if we are talking about Smith's body rather than his coat, since if anyone owns anything at all, then a person owns his or her body. In addition, Thomson implies that such a view entails the claim that you must remain attached to the violinist in the violinist case. See pages 53-54 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66. See also pages 75-78 of: Smith, Holly M. "Whose Body Is It, Anyway?" *Nous Supplement: Philosophical Perspectives Volume 6: Ethics* (1992): 73-96. This is a muddled and controversial aspect of the debate over Thomson's argument that I am going to set aside for two reasons. First, it is not necessary for the current task of explaining Thomson's overall argument. Second, it is not a component either of the Responsibility Objection or of my argument against the Responsibility Objection, which are the focus of this entire chapter. I would like to thank Dr. Mark Bernstein for bringing to my attention that this debate needed to be mentioned.

home in the open window case and people-seed case appears to be morally permissible because it is not an unjust killing, then abortion of a pregnancy due to contraceptive failure or not using contraception is not an unjust killing of the fetus and therefore morally permissible. But between pregnancies due to rape, contraceptive failure, and not using contraception, almost all pregnancies are covered. Thomson allows that perhaps abortion of some pregnancies might be morally wrong, but these examples show that the overwhelming majority of abortions are morally permissible.⁵⁷

In the first chapter, I gave a rough standard form of Thomson's argument to show the general train of thought. That version of the argument is as follows:

- 1) Killing an innocent adult, P, is wrong in most circumstances Y.
- 2) The fact that P has property or set of properties X and is in Y is what makes killing P wrong.
- 3) If a being either lacks X or is in exceptional circumstances Z rather than Y, then killing that being is permissible.
- 4) A fetus, Q, has X.
- 5) Abortion kills Q in Z.
- C) Abortion is permissible.

Now that we have examined Thomson's argument in more detail, we can provide a better standard form of Thomson's argument that is clearer and more explicit. This version of Thomson's argument will be the version referred to throughout the rest of this chapter when mention is made of Thomson's argument:

⁵⁷ See pages 58-59 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

- 1) Killing a being is morally wrong if and only if that being has X and the killing would be unjust. (premise)
 - 2) If killing a being is morally wrong, then that being has X and the killing would be unjust. (from 1 by biconditional elimination)
 - 3) If a being lacks X or the killing would not be unjust, then killing that being is morally permissible. (from 2 by contraposition)
 - 4) A fetus, Q, has X. (premise)
 - 5) Abortion kills Q, but the killing is not unjust. (premise)
- C) Abortion is morally permissible. (from 3 and 5 by modus ponens)

This argument is formally valid. As a result, rejecting this argument requires rejecting one of the premises. Premises (2) and (3) follow logically from premise (1), so premises (2) and (3) are not candidates for rejection. Premise (4) is assumed for the sake of argument because it is the central claim of the main anti-abortion argument, and the conclusion still follows if premise (4) is replaced by the opposite claim that “a fetus, Q, lacks X,” and is therefore not a candidate for rejection. This leaves premises (1) and (5). Premise (1) is plausible based upon Thomson’s analysis of the violinist case and the correct interpretation of having X being that having X entails a right not to be killed unjustly. Premise (5) is plausible based upon Thomson’s analysis of the violinist case, the open window case, and the people-seed case.

Thomson ends the discussion of her argument with her view on where the abortion debate should go from here. Since she thinks that her argument works, Thomson thinks that abortion is morally permissible, but there is still the need for further discussion because she has not addressed the issue of character. She begins by noting the following: “We surely must all grant that there may be cases in which it would be morally indecent to detach a person from your body at the cost of his life.”⁵⁸ What Thomson means by “morally indecent” is that some actions, while they may not be morally wrong, indicate a character deficiency that merits moral criticism. For example, imagine that in the violinist case all of the details are the same except that the violinist only requires an hour of attachment to your kidneys and you are guaranteed to have no negative side effects from the procedure. Since the violinist still has no right to your kidneys and you have a right to bodily integrity, unplugging and thereby killing the violinist is still morally permissible because it is not an unjust killing. The inconvenience that you would have to endure is so small in comparison to the benefit of saving the violinist’s life that we can and should think less of you as a moral agent and criticize you should you choose to unplug the violinist instead of waiting for an hour. The same may well be true in real-life abortion cases: while abortions are morally permissible, there may be good reasons for criticizing the moral character of many people who get abortions. Put in another way, there are some sacrifices that no one is morally required to make and, as such, refusal to make those sacrifices is morally permissible. Nonetheless, if the reasons for refusing to make those sacrifices are poor or show a deficiency in

⁵⁸ See page 59 of: Thomson, Judith Jarvis. “A Defense of Abortion.” *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

character, then it is proper to give moral criticism for the refusal to make those sacrifices in spite of the refusal being morally permissible. Thomson thus concludes that there is still plenty of room for discussion in the abortion debate centered on issues of character.⁵⁹

2.2: The Responsibility Objection

Thomson's call for an additional argument that abortion is an unjust killing has not gone unheeded. The usual reply to Thomson's argument is called the Responsibility Objection.⁶⁰ A good way to start analyzing the Responsibility Objection is by examining this quote by David Boonin:

Since Thomson's argument turns crucially on the analogy between a woman's being pregnant and your being plugged into the famous violinist, her critics are left with essentially three lines of response: they can attempt to identify a morally relevant disanalogy between the two cases, they can embrace the conclusion that it would be impermissible for you to unplug yourself from the violinist, or they can reject the authority of such arguments from analogy.⁶¹

Remember that, in terms of the above standard form of Thomson's argument, rejecting the argument requires rejecting premise (1) or premise (5). Premise (1) states that killing a being is morally wrong if and only if that being has X and the killing would be unjust, while premise (5) states that abortion kills a fetus but not unjustly. With this in mind, the options for replying to Thomson's argument are as follows. One option is to reject arguments from analogy altogether, which would lead to the rejection of premises (1) and

⁵⁹ See pages 59-64 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

⁶⁰ There are numerous instances of the Responsibility Objection being raised in the literature. Here is a very short list of examples: Langer, Richard. "Voluntary Intercourse and Fetal Rights: A Response." *Journal of Social Philosophy* 31.3 (Fall 2000): 353-359. Beckwith, Francis J. "Personal Bodily Rights, Abortion, and Unplugging the Violinist." *International Philosophical Quarterly* 32.1 (March 1992): 105-118. Huffman, Tom L. "Abortion, Moral Responsibility, and Self-Defense." *Public Affairs Quarterly* 7.4 (October 1993): 287-302. Lee, Patrick. "A Christian Philosopher's View of Recent Directions in the Abortion Debate." *Christian Bioethics* 10.1 (January-April 2004): 7-31.

⁶¹ See page 287 of: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

(5) since the plausibility of both premises is rooted in arguments from analogy. Another option is to reject premise (1) by rejecting both Thomson's conclusion that unplugging the violinist in the violinist case is morally permissible and Thomson's analysis of what it means to have X. A final option is to reject premise (5) by rejecting Thomson's analysis of the violinist case, the open window case, and the people-seed case.

Rejecting arguments from analogy entirely is not a viable option for several reasons, of which the following three are the most important. First, argument from analogy is a legitimate inductive argument form that gives us good reason to believe the conclusion of such arguments if used correctly. To give just one class of examples, all applications and extensions of a scientific theory that has been confirmed in one setting to a new setting, such as from a lab setting to an everyday situation, require arguments from analogy. Scientists and engineers use scientific reasoning in this way on a consistent basis with consistently good results. Since arguments from analogy can and do work if used correctly, we have no good reason, solely on principle, to reject arguments from analogy. Second, using arguments from analogy is a generally accepted point in the abortion debate as noted and explained in the first chapter. Third, rejecting arguments from analogy entirely would seem to preclude the main anti-abortion argument from working since the main anti-abortion argument relies on an argument from analogy. Reasoning from innocent adults having X, killing innocent adults being wrong because they have X, fetuses having X, and abortion killing fetuses to abortion being wrong because they have X is an argument from analogy that states that because two situations

are the same in several relevant respects the situations must be the same in this other relevant respect. In fact, it is hard to see how any ethical reasoning can take place that does not rely on arguments from analogy in a similar fashion.

Rejecting premise (1) also does not appear to be a viable option. Remember that premise (1) states that killing a being is morally wrong if and only if that being has X and the killing would be unjust. Rejecting premise (1) requires rejecting the idea that a being having X and the killing being unjust are the two necessary conditions for killing the being to be morally wrong. Claiming that premise (1) is false because there are additional necessary conditions that it leaves out will not help in rejecting Thomson's argument. After all, fixing the premises of Thomson's argument by including the additional necessary conditions will still result in a sound argument for the conclusion that abortion is morally permissible because the necessary condition of the killing being unjust remains and still does not apply to abortion. A similar problem arises if it is claimed that premise (1) is false because a being having X is not a necessary condition for killing the being to be morally wrong, because the necessary condition of the killing being unjust remains and still does not apply to abortion. As a result, rejecting premise (1) will help in rejecting Thomson's argument if and only if premise (1) is false because the killing being unjust is *not* a necessary condition for the killing being morally wrong. Since it does not make sense to claim that a necessary condition for a killing being morally wrong is that the killing is just, this way of rejecting premise (1) amounts to the claim that any killing of a being with X is morally wrong.

This way of rejecting premise (1) results in holding a more restrictive view of when killing a being is morally wrong that gives counterintuitive and almost certainly incorrect answers in cases other than abortion cases. For example, holding this more restrictive view of when killing a being is morally wrong seems to require denying that there is a right to self-defense. Killing someone in self-defense is killing a being with X, and this more restrictive view of when killing a being is morally wrong entails that having X is enough to make killing that being wrong. In fact, it would seem to entail a total and complete pacifism and perhaps even a total and complete avoidance of action: since any action may end up killing a being with X even if just by accident, killing a being with X is always morally wrong, and avoiding morally wrong actions is the ethically correct course of action, it follows that more or less any action is morally wrong. This cannot be correct, which indicates that Thomson's analysis of what it means to have X is correct since it does not have these problems. Furthermore, Thomson's conclusion that unplugging the violinist in the violinist case is morally permissible is a generally accepted point in the abortion debate. Very few people in the abortion debate, if any, believe that unplugging the violinist in the violinist case is morally wrong, which means that almost all defenders of the anti-abortion position agree with Thomson's analysis of what it means to have X.⁶²

⁶² I have found only one example in the literature of an argument that unplugging the violinist in the violinist case is morally wrong, and it does not appear to be taken seriously by almost everyone on both sides of the abortion debate. See the following: Hershenov, David B. "Abortions and Distortions: An Analysis of Morally Irrelevant Factors in Thomson's Violinist Thought Experiment." *Social Theory and Practice* 27.1 (January 2001): 129-148. There are many who have argued that unplugging is morally wrong in similar but importantly different cases, and that these cases are more analogous to abortion than the violinist case, but this is a separate argument that rejects premise (5) rather than premise (1).

This leaves rejecting premise (5) as the most plausible way of rejecting Thomson's argument. Remember that premise (5) states that abortion kills a fetus but not unjustly. The Responsibility Objection is an argument that premise (5) is false because there is an important disanalogy between the violinist case and most abortion cases. Some abortion cases are analogous to the violinist case, and Thomson's argument shows that those abortions are morally permissible. In particular, Thomson's argument shows that abortion when the pregnancy is due to rape is morally permissible because pregnancy due to rape is analogous to being attached to the violinist in the violinist case. It is true for a pregnancy due to rape that the fetus has no right to the woman's body since the pregnancy was against the woman's will and therefore removing the fetus via abortion is not unjust. Most pregnancies are not due to rape, but are the result of voluntary intercourse. Pregnancies due to voluntary intercourse are not analogous to the violinist case in a way that shows that, while unplugging the violinist is not unjust, abortion is an unjust killing and is therefore morally wrong. The relevant disanalogy between pregnancies due to voluntary intercourse and the violinist case upon which the Responsibility Objection is based is that the pregnancy due to voluntary intercourse is the direct result of the woman's actions. What is meant by this is best explained by example. Consider some cases where a person is injured because of an action that you took. One such example is that of a hunting accident: imagine that you are going hunting for deer, and while out hunting you accidentally shoot another hunter. Another example is that of drunken driving: imagine that you are driving home while intoxicated, and while doing so you accidentally run into or over a pedestrian. In these cases, it appears that you have acquired a moral responsibility to meet the need for medical care in which the victim in

each case finds himself or herself. After all, it appears that you are morally obligated to at least attempt to meet the need for medical care, and that you would be doing something morally wrong by simply leaving the wounded hunter or injured pedestrian alone and walking or driving away.

Why does this appear to be the case? In other words, in the hunting accident and drunken driving examples, why do you acquire a moral responsibility? Richard Langer, one of the foremost defenders of the Responsibility Objection, gives a set of three criteria for when you acquire a moral responsibility that is commonly accepted by defenders of the Responsibility Objection.⁶³ The first criterion is that you perform an action that results in someone being put in need.⁶⁴ This criterion is clearly met in the hunting accident and drunken driving examples, since going hunting and driving while intoxicated, respectively, result in someone being put in need of medical care. This criterion by itself is clearly not enough to acquire a moral responsibility. Langer gives the example of raking a pile of leaves together, which is then struck by lightning, ignites, and burns down your neighbor's house. In this case you performed an action that resulted in your neighbor being put in need of a new place to live, but you clearly have not acquired a moral responsibility as a result.⁶⁵ So, more criteria are required. The second criterion is that the action that resulted in someone being put in need was

⁶³ See page 32 of: Langer, Richard. "Abortion and the Right to Privacy." *Journal of Social Philosophy* 23.2 (Fall 1992): 23-51.

⁶⁴ See page 32 of: Langer, Richard. "Abortion and the Right to Privacy." *Journal of Social Philosophy* 23.2 (Fall 1992): 23-51.

⁶⁵ See page 35 of: Langer, Richard. "Abortion and the Right to Privacy." *Journal of Social Philosophy* 23.2 (Fall 1992): 23-51.

voluntary.⁶⁶ For example, if an evil scientist uses a mind control device to force you to stab someone against your will, then you clearly have not acquired a moral responsibility as a result, but the evil scientist has. The third criterion is that someone being put in need was a reasonably foreseeable outcome of the action that was performed.⁶⁷ For instance, you do not acquire a moral responsibility in Langer's lightning leaves example mentioned above precisely because the chain of events leading from your action to your neighbor being put in need is so unlikely to have occurred that no one could reasonably consider it a foreseeable outcome of raking the leaves.⁶⁸ These last two criteria are also clearly met in the hunting accident and drunken driving examples since both actions are voluntarily performed and victims being put in need are reasonably foreseeable outcomes of the actions. Jointly, these three criteria are meant to be a sufficient condition for acquiring a moral responsibility.⁶⁹ This is seen by an analysis of the cases presented thus far: the hunting accident and drunken driving examples meet all three criteria while the lightning leaves and evil scientist examples do not, and only in the former pair of examples do you acquire a moral responsibility.

Let us now return to the topic of abortion. Defenders of the Responsibility Objection argue that pregnancy due to voluntary intercourse meets all three criteria: performing an action that resulted in someone being put in need, the action was

⁶⁶ See page 35 of: Langer, Richard. "Abortion and the Right to Privacy." *Journal of Social Philosophy* 23.2 (Fall 1992): 23-51.

⁶⁷ See pages 36-37 of: Langer, Richard. "Abortion and the Right to Privacy." *Journal of Social Philosophy* 23.2 (Fall 1992): 23-51.

⁶⁸ See page 35 of: Langer, Richard. "Abortion and the Right to Privacy." *Journal of Social Philosophy* 23.2 (Fall 1992): 23-51.

⁶⁹ None of these criteria, individually or jointly, appear to be necessary conditions. For instance, it appears to be the case that you could assume such a moral responsibility by voluntarily agreeing to it even though none of the other criteria are met. An example would be agreeing to donate a kidney to someone who needed a kidney transplant, even though you have nothing to do with the kidney recipient's need for a kidney.

voluntary, and someone being put in need was a reasonably foreseeable outcome of the action. The action was the intercourse, which resulted in the fetus being put in need of the pregnant woman's body. The action was voluntary, and pregnancy is a reasonably foreseeable outcome of intercourse. This means that a woman who becomes pregnant due to voluntary intercourse acquires a moral responsibility for meeting the need of the fetus for her body.⁷⁰ It appears to follow from this that abortion is an unjust killing and therefore morally wrong. After all, in the hunting accident and drunken driving examples we would rightly think that shooting the wounded hunter or running over the pedestrian after the initial injury to finish the victim off would be an unjust killing and therefore morally wrong. Abortion of a pregnancy due to voluntary intercourse seems to be the exact same thing. In other words, it is unjust to the one to whom a moral responsibility is owed to fail to ethically fulfill the moral responsibility you have acquired. Since a woman who becomes pregnant due to voluntary intercourse acquires a moral responsibility to the fetus, abortion in this case is an unjust killing of the fetus. This means that premise (5) of Thomson's argument, which says that abortion kills a fetus but not unjustly, is false and therefore that Thomson's argument does not work. Furthermore, replacing premise (5) of Thomson's argument with "abortion is an unjust killing of a fetus" while keeping all of the other premises the same leads to the conclusion that abortion is morally wrong.

⁷⁰ See pages 41-46 of: Langer, Richard. "Abortion and the Right to Privacy." *Journal of Social Philosophy* 23.2 (Fall 1992): 23-51. For a variation on this argument that focuses more on the parent-child relation generating this sort of moral responsibility, see pages 20-26 of the following: Lee, Patrick. "A Christian Philosopher's View of Recent Directions in the Abortion Debate." *Christian Bioethics* 10.1 (January-April 2004): 7-31.

Put in standard form, the Responsibility Objection argument is as follows:

- 1) If a person Y performs a voluntary action that results in another person Z being put in need when someone being put in need was a reasonably foreseeable outcome of that action, then Y has acquired a moral responsibility for meeting the resulting need of Z. (premise)
 - 2) A woman who becomes pregnant due to voluntary intercourse performs a voluntary action that results in the fetus being put in need of her body when pregnancy was a reasonably foreseeable outcome of that action. (premise)
 - 3) A woman who becomes pregnant due to voluntary intercourse has acquired a moral responsibility for meeting the need of the fetus for her body. (1 and 2 by modus ponens)
 - 4) If a person fails to ethically fulfill a moral responsibility because the person performs action A, then action A is an unjust action. (premise)
 - 5) A woman who becomes pregnant due to voluntary intercourse and has an abortion fails to ethically fulfill her moral responsibility for meeting the need of the fetus for her body. (premise)
- C) Abortion unjustly kills a fetus. (from 4 and 5 by modus ponens)

This argument is formally valid. As a result, rejecting this argument requires rejecting one of the premises. Premise (3) follows logically from premises (1) and (2), so it is not a candidate for rejection. Premises (2) and (4) seem to be obviously true facts about the world and therefore are not candidates for rejection. This leaves premises (1) and (5). Premise (1) is plausible based upon the analysis of cases like the hunting accident example, the drunken driving example, the evil scientist example, and the lightning

leaves example noted above. Premise (5) is plausible based upon premise (1) and therefore premise (3) being plausible combined with comparing abortion to cases like the hunting accident example and the drunken driving example.

2.3: The Usual Reply to the Responsibility Objection

The usual pro-abortion reply to the Responsibility Objection is to argue that pregnancy due to voluntary intercourse cannot possibly result in the pregnant woman acquiring a moral responsibility of the kind that would make abortion morally wrong. In other words, the usual pro-abortion reply to the Responsibility Objection is to argue that premise (1) of the Responsibility Objection argument is false and therefore the entire argument is unsound because it has a false premise. In addition, if premise (1) is false, then premises (3) and (5) are also most likely false because their sole support comes from premise (1). Defenders of Thomson's argument usually argue that premise (1) of the Responsibility Objection argument is false because the examples offered to support the Responsibility Objection are not analyzed completely and a full analysis shows that meeting the three criteria are not enough to establish that one has acquired a moral responsibility. Indeed, Thomson herself predicts the Responsibility Objection and raises just this sort of response to it. The open window case and the people-seed case can and should be read not only as relevantly analogous to pregnancy due to contraceptive failure but also as rebuttals to the three criteria. In both cases you perform the voluntary action of opening a window, and then a person or a people-seed enters your home and consequently is put in need of remaining there. Furthermore, this was a reasonably foreseeable outcome of opening a window. This means that according to premise (1) of the Responsibility Objection argument you have a moral responsibility to the person or

the people-seed in both cases, even if, for instance, the person is a thief or you put up screens to protect against people-seeds. But Thomson argues that this is incorrect: in these cases it is not unjust to evict the person or the people-seed from your home since you have a right to decide who remains in your home, and nothing in the example appears to indicate anything to the contrary. If this analysis of the open window case and the people-seed case are correct, then premise (1) of the Responsibility Objection argument must be false.⁷¹

A more detailed version of the usual pro-abortion reply to the Responsibility Objection is given by David Boonin.⁷² Boonin argues that the three criteria for acquiring a moral responsibility given in premise (1) of the Responsibility Objection argument are not jointly sufficient for acquiring a moral responsibility. If so, then all three criteria can be met while a moral responsibility has not been acquired, which makes premise (1) false so the Responsibility Objection argument does not work. Boonin argues for this by analyzing examples where all three criteria are clearly met but a moral responsibility does not appear to have been acquired. One example is tipping in a restaurant after a meal: you perform the voluntary action of leaving money on the table, then a person or group of people is put in need of the money for income and the money is taken for that reason, and the money being taken is a reasonably foreseeable outcome of leaving money on the table.⁷³ The three criteria cannot distinguish between two different cases involving tipping. In the first case, you leave your money on the table with the intent that it be

⁷¹ See pages 57-59 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

⁷² Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

⁷³ See page 292 of: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

taken as a tip. In the second case, you leave your money on the table by accident after placing it there during the meal with the intent that you return it to your pocket after the meal. It seems that you have a moral responsibility to let the wait staff keep the money in the first case, and attempting to retrieve your money is rightfully seen as trying to skip out on tipping. You do not appear to have such a moral responsibility in the second case, and attempting to retrieve your money is rightfully seen as retrieving your lost property. The difference is one of intent: in the first case your intent was to tip, and in the second case your intent was to keep your money. The intent appears to make a difference as to whether or not you have a moral responsibility to let the wait staff keep the money. But in both cases you meet all three criteria, so this shows that the three criteria cannot account for the difference between these two cases. Therefore, the three criteria are not jointly sufficient conditions for acquiring a moral responsibility because the three criteria, at a bare minimum, leave out the necessary condition of intent.⁷⁴ Since a woman who becomes pregnant due to voluntary intercourse but did not intend to become pregnant clearly has not met the necessary condition of intent, premise (1) of the Responsibility Objection is false and any accurate revision of it will not lead to the conclusion that abortion is an unjust killing.⁷⁵

Another example Boonin gives is that of curing a patient of a deadly disease with a drug that leaves him needing a kidney transplant at a later date. You perform the voluntary action of giving the patient the drug, which puts the patient in need of a kidney transplant, and this side effect of the drug is a reasonably foreseeable outcome of curing

⁷⁴ See pages 292-293 of: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

⁷⁵ See pages 293-295 of: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

the patient of his or her current deadly disease. The three criteria cannot distinguish between two different cases where you administer the drug. In the first case, the drug is the only way to save the patient's life by curing the deadly disease. In the second case, there is another drug that will cure the deadly disease that is readily available and does not have any negative side effects, but you decide to use the drug that will leave the patient in need of a kidney transplant instead.⁷⁶ Do you have a moral responsibility to meet the patient's need for a kidney transplant at a later date? It seems that these two cases have different answers: you do not seem to have a moral responsibility in the first case, but you do in the second case. The difference between the two cases seems to stem from a difference in what exactly your voluntary action did. In the first case, your action is the reason why the patient still exists at a later date, but is not the reason why the patient is in need because the patient would not still be in existence without the need. In the second case, your action is the reason for both why the patient still exists at a later date and why the patient is in need. In the second case you could have avoided putting the patient in need, but failed to do so. In the first case, there was no way of avoiding putting the patient in need. This shows that there is a relevant difference between your action being the reason why a being exists but not the reason why that being is in need if it exists and your action being the reason why a being exists as well as why that being is in need if it exists.⁷⁷

⁷⁶ See pages 303-304: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

⁷⁷ See pages 301-304 of: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

All three criteria are met in both cases, so the three criteria cannot account for the difference between these two cases. Therefore, the three criteria are not jointly sufficient conditions for acquiring a moral responsibility because the three criteria, at a bare minimum, leave out the necessary condition that your action is the reason why the being is in need if it exists and not just that your action is the reason why the being exists. Since a woman who becomes pregnant due to voluntary intercourse performed an action that is the reason why the fetus exists but is not the reason why the fetus is in need of the woman's body – the reason for that is solely the nature of the fetus itself – it follows that premise (1) of the Responsibility Objection is false and any accurate revision of it will not lead to the conclusion that abortion is an unjust killing.⁷⁸ In fact, the hunting accident and drunken driving examples used to defend premise (1) of the Responsibility Objection argument work only because they are instances where, if you had not done the action, then the victim would exist but not in a state of need. Pregnancy due to voluntary intercourse is different, because if you had not done the action, then the "victim" would not exist at all.⁷⁹ It follows that actions like voluntary intercourse and administering the drug in the first case given above cannot lead to acquiring a moral responsibility because the action is not the reason why anyone is in need. Boonin concludes that the Responsibility Objection argument does not work because there are multiple convincing reasons for thinking that premise (1) is false.⁸⁰

⁷⁸ See pages 304-305 of: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

⁷⁹ See pages 301-303 of: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

⁸⁰ See pages 305-313 of: Boonin-Vail, David. "A Defense of 'A Defense of Abortion': On the Responsibility Objection to Thomson's Argument." *Ethics* 107.2 (January 1997): 286-313.

Here is my own example that I think shows that premise (1) is false. This example is that of a professional boxing match where one boxer wins by painfully knocking the other boxer unconscious which results in a concussion. The winning boxer clearly performed an action, namely punching, that resulted in the losing boxer being put in need of medical care. The action was also voluntary. Furthermore, the losing boxer being put in need of medical care as a result of the action was foreseeable. In fact, it is likely that the action was intended and performed precisely because this was a foreseeable result.⁸¹ Despite this, the winning boxer does not seem to acquire a moral responsibility to provide medical care to the losing boxer. I am not sure of the exact reason why this is the case because there are several distinct possibilities, of which I will mention three. One possibility is that the losing boxer waives or negates the moral responsibility by voluntarily participating in the boxing match knowing full well what may result. Another possibility is that another person or entity involved in the boxing match, such as the ringside doctor or the business hosting the match, agrees to take over the moral responsibility by participating in the boxing match in a particular role. A third possibility is that the winning boxer has explicitly or implicitly rejected participating in the sort of relationship with the other boxer that would entail the moral responsibility should the other conditions be met – after all, it is likely that no one would be a boxer

⁸¹ This is not the same as the claim, which I am not making, that the action was done with the intent of putting the losing boxer in need of medical care. In other words, I am making the claim that at least some punches in boxing matches are done with the intent of carrying a risk of putting the opposing boxer in need of medical care. Most boxers are not psychopaths out to purposely maim their opponents, but most boxers are out to win. Winning a boxing match requires intending to throw some punches that have a chance of severely injuring anyone on the receiving end of the blow, which is compatible with the desire that no such injury actually occur. I would like to thank Dr. Mark Bernstein and Dr. Martin Curd for drawing my attention to the need for this clarification.

otherwise. In any case, it appears that meeting the three criteria are not jointly sufficient to acquire a moral responsibility because this boxing example meets all three conditions but a moral responsibility has not been acquired.

Although I think that premise (1) of the Responsibility Objection argument is false and therefore the usual pro-abortion reply to the Responsibility Objection is correct, I instead want to offer a different and complementary sort of reply. I will argue that the Responsibility Objection is a form of circular reasoning and thus does not prove anything. This is because, by analyzing what exactly having a moral responsibility of this sort entails, it turns out that the only way to argue that a woman acquiring a moral responsibility for a fetus makes aborting that fetus wrong is to assume that abortion is wrong, which is exactly the issue at hand.

2.4: What Does It Mean to Meet a Need?

Before we begin fully analyzing what exactly having a moral responsibility of this sort⁸² entails, we must first examine what it means to meet a need. This is required because the type of moral responsibility that is used in the Responsibility Objection argument is a moral responsibility for meeting a need. Remember, according to the Responsibility Objection argument, if you perform a voluntary action that puts another in need when the result of putting another in need was a reasonably foreseeable outcome of performing the action, then you have acquired a moral responsibility for meeting the need you have caused. So, what does it mean to meet a need?

⁸² By “of this sort” I mean a moral responsibility for meeting a need acquired by meeting the three criteria of performing an action that puts another in need, that action being voluntary, and the result of putting another in need being a reasonably foreseeable outcome of the action. Other moral responsibilities that do not involve meeting a need or are acquired in different ways may entail something else entirely.

In the current context I take meeting a need to mean something like returning the one in need as near as possible to the state they were in prior to being put in need as regards things related to the need. This can probably be explained more easily by example. Consider the hunting accident and drunken driving examples, the two foremost examples used in the defense of the Responsibility Objection. In both of these cases the need is a need for medical care for the wounds received as a result of your actions. Successfully meeting this need for medical care seems to require getting the wounds of the victims healed. Prior to your actions the victims were in a certain state of health, which then was drastically lowered by your actions. By returning the victims to a state of health as near as possible to the state they were in before being shot or being hit by your car, you are meeting their need for medical care. If you fail to do this, say by refusing to provide any medical care by leaving the victims alone after they are injured, then you are not meeting their need for medical care. There are other issues related to this that must be mentioned. For instance, there are issues involving recompense if meeting the need as far as possible still leaves the one in need worse off than before being put in need. In the hunting accident and drunken driving examples, if you meet the need of the victims for medical care but this still leaves the victims worse off than before your actions, for example if they are paralyzed or suffer chronic pain, then you may have a further moral responsibility to provide money to the victims. Another issue is how this definition of meeting a need applies directly to abortion cases: for example, there is David Boonin's argument given above that, because the fetus would not exist if not for the actions of the mother, abortion returns the fetus to the state no worse than and roughly equivalent to the state it was in prior to being put in need and therefore is a form of meeting the need of the

fetus.⁸³ I want to set these issues aside in order to move on to the more important point that the Responsibility Objection is circular. The recompense issue does not seem to bear on the abortion debate, and I will assume for the sake of argument that Boonin is incorrect in his analysis since if Boonin is correct, then the Responsibility Objection cannot work anyway.

I do want to address why I include “as regards things related to the need” at the end of this definition of meeting a need and what I mean by it. I include this clause for two important reasons. The first is to appropriately limit the scope of meeting a need to the specific instance at hand. For example, in the hunting accident and drunken driving examples you put the victims in need of medical care for the wounds you have inflicted. You can only meet the need of the victims by getting the wounds healed, but if the victims have preexisting heart conditions, then you do not fail to meet the need of the victims for medical care by only healing the wounds and not the preexisting heart conditions. This is because it appears that you are only morally responsible for meeting the need that you caused and not any related needs. The second is to avoid unnecessarily restricting what appear to be reasonable but unusual options for meeting a need. In particular, I want to allow for meeting a need by eliminating the need entirely. Consider the following example: as a foreseeable result of one of my voluntary actions I destroy a farmer’s crop, which is his sole food supply. In this case I am morally responsible for meeting the farmer’s need for food. The most obvious way to meet this need is to provide the farmer with an alternate food supply, since that will return the farmer to his

⁸³ See, for example, pages 301-313 of: Boonin-Vail, David. “A Defense of “A Defense of Abortion”: On the Responsibility Objection to Thomson’s Argument.” *Ethics* 107.2 (January 1997): 286-313.

or her previous state of having a food supply and therefore no longer being in need of food. Let us consider this alternative: imagine that I am a scientific genius, and I am able to inject the farmer with a serum I created that lets him photosynthesize so that he will no longer require food. Assuming that the farmer consents to the injection, it seems to me that this is a legitimate way to meet the farmer's need. The farmer will be in a very different state in general than he or she was prior to being put in need, since I've eliminated the need for food entirely. But the farmer will be in the same state as prior to being put in need as regards needing food, namely not being in need of a food supply. A second and less fanciful example is getting someone unfairly fired from his or her only job as a foreseeable result of one of my voluntary actions, so that I am morally responsible for the person's need for a job. The most obvious way of meeting this need is by finding the person a new job. If I am a multibillionaire and give the person enough money that he or she never needs to work again, then it seems that I am also meeting this need even though it is through the unusual method of eliminating the need entirely. With this out of the way, let us now move on to analyze what exactly having a moral responsibility of this sort entails.

2.5: What Does Having This Sort Of Moral Responsibility Entail?

In order to see the problem with the Responsibility Objection, let us take the same approach to the Responsibility Objection that Thomson took to the main anti-abortion argument. Remember that Thomson assumed for the sake of argument that the central claim of the main anti-abortion argument was true, namely the claim that a fetus has whatever property or properties that make killing us wrong, and then asked how one is

supposed to get from that claim to the conclusion that abortion is morally wrong.⁸⁴

Likewise, I will assume for the sake of argument that the central claim of the Responsibility Objection argument is true, namely that a woman who becomes pregnant due to voluntary intercourse has acquired a moral responsibility for the need of the fetus. In other words, let us assume that premises (1) through (3) of the Responsibility Objection argument are true. Now, how is one supposed to get from this claim to the conclusion that abortion unjustly kills a fetus? According to the Responsibility Objection argument, the answer is premises (4) and (5). Premise (4) says that if a person fails to ethically fulfill a moral responsibility because the person performs another action instead, then that other action is an unjust action. Premise (5) says that a woman who becomes pregnant due to voluntary intercourse and has an abortion fails to ethically fulfill her moral responsibility for meeting the need of the fetus for her body. Together, these premises are supposed to lead to the conclusion that abortion unjustly kills a fetus. This will not do because premise (5) has not been explained: why is it that a woman who becomes pregnant due to voluntary intercourse and has an abortion fails to ethically fulfill her moral responsibility? This is only explained in the literature on the Responsibility Objection by comparison with examples that are supposed to be relevantly similar to abortion cases, such as the hunting accident and drunken driving examples. In these examples killing the victim is an action that fails to ethically fulfill a moral responsibility, so abortion is also an action that fails to ethically fulfill a moral responsibility. This is not good enough because it simply asserts that certain actions in

⁸⁴ See page 48 of: Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

the hunting accident and drunken driving examples fail to ethically fulfill a moral responsibility rather than explaining why this is the case. This is probably because it is correctly assumed that it is obvious that killing the victims in these examples fails to ethically fulfill a moral responsibility. We cannot plausibly claim that abortion cases are relevantly similar if we know nothing about why certain actions in these examples fail to ethically fulfill a moral responsibility.

We must analyze what having a moral responsibility of this sort entails so that we can see for what reasons an action can fail to ethically fulfill a moral responsibility. I propose that we begin by taking another look at one of the examples mentioned above, that of the hunting accident. This is for two important reasons. First, it is a generally accepted point that in this example you do acquire a moral responsibility for the wounded hunter and killing the wounded hunter is failing to ethically fulfill that moral responsibility. Second, the hunting accident example is a situation not involving abortion where, supposedly, the three criteria for acquiring moral responsibility – performing an action that resulted in someone being put in need, the action was voluntary, and someone being put in need was a reasonably foreseeable outcome of the action – are met so that the shooting hunter has acquired a moral responsibility for meeting the need of the wounded hunter. This is why the hunting accident example is often used by defenders of the Responsibility Objection. Since we are assuming that the hunter does indeed acquire a moral responsibility for meeting the need of the wounded hunter, just as we are assuming that a woman who becomes pregnant due to voluntary intercourse acquires a moral responsibility for meeting the need of the fetus, this is giving the benefit of the

doubt to the anti-abortion position. Both of these reasons should make any conclusions we reach much more plausible and convincing to any defenders of the anti-abortion position.

Let us now consider a series of different versions of the hunting accident example in order to analyze what exactly having a moral responsibility of this sort entails and thereby determining for what reasons an action can fail to ethically fulfill a moral responsibility. In all versions of the hunting accident example we have a shooting hunter who, despite taking every reasonable precaution, accidentally shoots another hunter who becomes wounded and thereby in need of medical care as a result. For convenience, let us call the shooting hunter Dick and the wounded hunter Harry, and let it be the case that Harry's wound is fairly serious. When the hunting accident occurs, we are assuming that Dick acquires a moral responsibility for meeting Harry's need because Dick meets all three criteria for acquiring a moral responsibility. What exactly has Dick acquired? In other words, what is morally required of Dick after the hunting accident?

A good place to start with an answer to this question is the above discussion of what it means to meet a need. It seems that Dick is supposed to return Harry to a state of health as close to his pre-wound state of health as possible. This is far too quick and simple, so this must be fleshed out a bit more. Consider the following scenarios:

- A) Dick attempts to carry Harry to the closest area where Harry can receive medical help, since he thinks that this is Harry's best chance. They make it to the medical help, and Harry makes a full recovery as a result.
- B) Dick attempts to carry Harry to the closest area where Harry can receive medical help, since he thinks that this is Harry's best chance. Unfortunately, Harry dies during the journey by bleeding to death.
- C) Dick promptly flees the scene after seeing what he has done. In doing so, he accidentally sets off a flare attached to a tripwire, which was left over from a previous military training exercise in the area. This flare is seen by a passing M.A.S.H. helicopter, which in turn lands to investigate, finds Harry, and provides Harry with medical help. Harry makes a full recovery as a result.
- D) Dick puts a small bandage on the bullet wound, pats Harry on the back, wishes him well, and leaves. Unfortunately, Harry dies shortly afterward by bleeding to death.⁸⁵
- E) Dick finds and kills another hunter, then uses that hunter's body parts to heal Harry. Harry makes a full recovery as a result.

For each of these scenarios we must ask two questions. First, did Dick meet Harry's need for medical care? Second, did Dick ethically fulfill his moral responsibility? The answer to the first question is yes in scenarios A, C, and E, and no in scenarios B and D. In

⁸⁵ I would like to thank Dr. Pat Kain, Mickey Lorkowski, and an anonymous audience member at the Colloquium on Sexual Ethics at the 2008 APA Central Division Meeting for independently drawing my attention to this particular sort of scenario that needed to be addressed.

scenarios A, C, and E, Harry is returned to a state of health as close to his pre-wound state of health as possible, so Dick met Harry's need for medical care. In scenarios B and D, Harry dies and therefore ceases to exist before he can be returned to his previous good state of health, so Dick did not meet Harry's need for medical care.

The answers to the second question are somewhat trickier to figure out. The answer is clearly "yes" in scenario A: after all, in scenario A Dick meets Harry's need through his action. I want to argue that the answer is "no" in the remaining scenarios, but for different reasons in each one. This will show us four different reasons why an action can fail to ethically fulfill a moral responsibility. Let us begin with scenario B, where Dick tries to meet Harry's need but fails to do so for reasons beyond his control. It seems that the only problem in this scenario is that Harry's need is not met, since Dick is attempting to meet the need and there are no other important occurrences that might affect the scenario. Nonetheless, Dick's moral responsibility was to meet Harry's need, and this was not done. Thus, the answer is "no" in scenario B because the moral responsibility was not fulfilled. This shows us that the first reason why an action can fail to ethically fulfill a moral responsibility is by failing to meet the need. Now, in scenario B it also seems clear that Dick did not do anything morally wrong since he did everything in his power to meet the need. This appears to give us some reason for thinking that the extremely initially plausible premise (4) of the Responsibility Objection argument – that if a person fails to ethically fulfill a moral responsibility because the person performs action A, then action A is an unjust action – is actually false and therefore another reason for thinking that the Responsibility Objection argument is unsound. This is because it does not seem that Dick performs an unjust action in scenario B even though Dick fails to

ethically fulfill his moral responsibility as a result. This might be able to be worked around by slightly altering premise (4) so that the emphasis is on the “fails to ethically fulfill” part rather than the “fulfill a moral responsibility” part. As such, I will set this potential problem aside and move on to the other scenarios.

In scenario C, Dick does not even try to meet Harry’s need because he runs away instead, and ends up meeting Harry’s need only by sheer luck. It seems that the main problem with this scenario is with Dick’s intent: Dick’s action did not have meeting Harry’s need as a reasonably foreseeable outcome, much less as the intended result, since Dick clearly intended to not meet Harry’s need at all and Harry’s need was only met due to an extremely unusual circumstance. Now, Dick did meet Harry’s need in this scenario since his action did have the result that Harry was returned to a state of health as close as possible to his pre-wound state of health. It therefore follows that Dick fulfilled his moral responsibility. But, Dick did not even attempt to fulfill his moral responsibility, and it was only fulfilled through events beyond his control. Thus, the answer is “no” in scenario C because while Dick fulfilled his moral responsibility he failed to ethically fulfill his moral responsibility. Indeed, Dick clearly did something morally wrong by running away. This shows us that the second reason why an action can fail to ethically fulfill a moral responsibility is if the action is specifically an attempt to avoid fulfilling the moral responsibility.

In scenario D, Dick does a token job of trying to meet Harry’s need and fails to meet Harry’s need as a result. Dick fails to meet Harry’s need in this scenario just as in scenario B, where Dick tries to carry Harry to help but Harry dies along the way, and as a result fails to ethically fulfill his moral responsibility. Unlike in scenario B, Dick is also

doing something else that is relevant in this scenario. As with scenario C, where Dick runs away, Dick's action did not have meeting Harry's need as a reasonably foreseeable outcome. It is obvious that minor bandaging will not heal bullet wounds that are causing internal bleeding. Unlike in scenario C, Dick's action does have meeting Harry's need as the intended result. It seems that the main problem in this scenario is that Dick's action is ineffectual: his action should have meeting Harry's need as a reasonably foreseeable outcome or at least a relatively reasonable chance of occurring.⁸⁶ If Dick's action has a relatively reasonable chance of meeting Harry's need but Harry expires anyway, as in scenario B, then Dick has done nothing morally wrong. If Dick's action does not have a relatively reasonable chance of meeting Harry's need and Harry expires as a result, as in this scenario, or in other words that Dick has other options that are more likely to succeed but chooses to act in a way that is less likely to succeed on purpose, then Dick has done something morally wrong. In both cases Dick has failed to ethically fulfill his moral responsibility, but the reasons why are clearly different because our assessment of Dick is different. This shows us that the third reason why an action can fail to ethically fulfill a moral responsibility is if the action does not have a relatively reasonable chance of meeting the need.

⁸⁶ I take "relatively reasonable chance," in the current context, to be something like "in the person's informed estimation, this is the option (or one of the options) most likely to result in the desired outcome." Actions that do not have a reasonable chance are either not very likely to result in the desired outcome or are the result of being negligently uninformed. Note that this is contextual, and the chance that the desired outcome will occur may not be very high objectively. Dick's action of trying to get Harry to the nearest medical help in scenario B has a relatively reasonable chance of meeting Harry's need even if they were hunting in the deep wilderness days away from any help, although in this case the objective probabilities for meeting Harry's need are incredibly low. This implies that there will always be at least one option with a relatively reasonable chance of success because there is at least one option that is more likely to succeed than other options.

In scenario E, Dick meets Harry's need by killing an innocent bystander to provide the raw materials for the medical care. As a result Dick clearly meets Harry's need, and thereby clearly fulfills his moral responsibility. Unlike in scenarios C and D, Dick's action is a specific attempt to fulfill his moral responsibility that has a relatively reasonable chance of meeting the need, but there is something new that is relevant in this scenario. We can tell this by comparing this scenario with scenario A, where Dick carries Harry to medical help and Harry recovers. In scenario A, Dick has done nothing morally wrong and may even be morally praiseworthy. In this scenario, Dick has done something morally wrong. In both cases Dick has fulfilled his moral responsibility, so there must be a reason for our different assessments. The reason is that Dick has fulfilled his moral responsibility by committing an action that is morally wrong for reasons that have nothing to do with the current situation of trying to meet Harry's need.⁸⁷ This is the same sort of thinking that underlies the common moral precepts "two wrongs do not make a right" and "the ends do not justify the means": you cannot ethically fulfill a moral responsibility by purposely breaking another ethical obligation.⁸⁸ This shows us that the fourth reason why an action can fail to ethically fulfill a moral responsibility is if the action is morally wrong for reasons outside of the moral responsibility in question.

⁸⁷ This contrasts with actions that are morally wrong for reasons having exactly to do with the current situation of trying to meet Harry's need, such as specifically attempting to avoid fulfilling the moral responsibility in scenario C or pursuing a negligent course of action in scenario D.

⁸⁸ I include "purposely" here because it seems possible for someone to ethically fulfill a moral responsibility by breaking another ethical obligation if doing so is by accident. The person would still have to do something about the broken obligation, but this is a separate issue. I also wish to exclude cases where someone does something that would normally be morally wrong, but the circumstances change that fact. For instance, it is normally wrong to break one of my ribs. I do not think that this action is wrong if you do so as part of giving me CPR or live-saving surgery, and as such I do not think that such cases run afoul of this restriction.

By examining these different versions of the hunting accident example we have now arrived at an analysis of what exactly having a moral responsibility of this sort entails. It seems that having a moral responsibility of this sort entails a moral requirement or ethical obligation to attempt to meet the need by performing morally permissible actions that have a relatively reasonable chance of meeting the need until the need is met. The four reasons given above for why an action can fail to ethically fulfill a moral responsibility are ways in which an action breaks this ethical obligation: it fails to meet the need, it is an attempt to not meet the need, it does not have a relatively reasonable chance of meeting the need, or it is not morally permissible for other reasons. This appears to be a comprehensive list, as it is hard to see what else a moral responsibility of this sort could possibly require of you or any other way that an action could fail to ethically fulfill such a moral responsibility.

2.6: The Circularity of the Responsibility Objection

Now that we have a list of the ways in which an action can fail to ethically fulfill a moral responsibility, let us return to the Responsibility Objection. Remember that we are assuming for the sake of argument that, just as the Responsibility Objection argument claims, a woman who becomes pregnant due to voluntary intercourse has acquired a moral responsibility to meet the need of the fetus for her body. We want to know how to get from this claim to the conclusion that abortion unjustly kills a fetus. The Responsibility Objection argument does this with premises (4) and (5). Premise (4) says that if a person fails to ethically fulfill a moral responsibility because the person performs another action instead, then that other action is an unjust action. Premise (5) says that a woman who becomes pregnant due to voluntary intercourse and has an abortion fails to

ethically fulfill her moral responsibility for meeting the need of the fetus for her body.

We noted above that this will not do because premise (5) has not been explained: why is it that a woman who becomes pregnant due to voluntary intercourse and has an abortion fails to ethically fulfill her moral responsibility?

We can finally answer this question by determining which of the ways in which an action can fail to ethically fulfill a moral responsibility apply to the case of a woman who becomes pregnant due to voluntary intercourse and has an abortion. Note that defenders of the Responsibility Objection usually claim that only by carrying the fetus to term will the pregnant woman ethically fulfill the moral responsibility. They are certainly correct that carrying the fetus to term will ethically fulfill the moral responsibility since it meets the need, is an attempt to meet the need, has a relatively reasonable chance of meeting the need⁸⁹, and is morally permissible. But out of the four ways an action can fail to ethically fulfill a moral responsibility – it fails to meet the need, it is an attempt to not meet the need, it does not have a relatively reasonable chance of meeting the need, or it is not morally permissible for other reasons – which ones apply if she has an abortion? Remember that the need in this case is the fetus's need for the woman's body. Does abortion fail to meet this need? I want to argue that the answer is “no,” and that abortion does in fact meet this need. This is because if an abortion is successful then the fetus will no longer be in need of the woman's body. Remember from the analysis of meeting a need given above that eliminating a need is a form of meeting a need, as in the case of meeting a person's need for a job by giving enough

⁸⁹ I will set aside cases where carrying the fetus to term does not have any reasonable chance of succeeding, such as ectopic pregnancies and some birth defects, since it appears that the overwhelming majority of anti-abortion supporters agree that abortion is morally permissible in these sorts of cases.

money that the person no longer needs to work. Abortion has the same feature: rather than meeting the need in the usual way by carrying the fetus to term, abortion meets the need by removing the fetus from the woman's body and placing it in a state where it no longer needs the woman's body. This is much clearer with future abortion methods that fit my definition of abortion given in the first chapter, such as removing the fetus to permanent cold storage. In these cases the fetus no longer needs the woman's body because it has been moved to a Petri dish or other storage unit that provides all of the nutrients and such that the fetus requires.

This is much less clear with current abortion methods where the fetus is killed during the process. The fetus is killed as a result of current abortion methods only because our technology is not advanced enough to both remove the fetus intact and then preserve it indefinitely – in other words, as a side effect or later effect of the goal of removal. Upon removal the fetus has been returned to the same state of not needing the woman's body that it was in prior to implantation, and therefore abortion meets the need of the fetus by eliminating the need.⁹⁰ Thus the first way an action can fail to ethically fulfill a moral responsibility does not apply to abortion. Furthermore, if the first way does not apply to abortion, then the second and third ways also do not apply to abortion. Since abortion meets the need of the fetus abortion is an attempt to meet the need, which takes care of the second way. Likewise, abortion is practically guaranteed to work, which takes care of the third way. This leaves only the fourth way that an action can fail to ethically fulfill a moral responsibility: a woman who becomes pregnant due to

⁹⁰ We know that the fetus only becomes in need of the woman's body once pregnancy starts at implantation rather than at the conception of the fetus. Consider a fetus conceived in a test tube and then implanted as a result of IVF treatment. That fetus was not in need of the woman's body prior to implantation, and there is no reason to think that a fetus conceived in the usual way is any different in this regard.

voluntary intercourse and has an abortion can only be claimed to have failed to ethically fulfill her moral responsibility by claiming that abortion is not morally permissible for other reasons.

But now the problem with the Responsibility Objection becomes apparent. The Responsibility Objection claims that abortion is a failure to ethically fulfill the woman's moral responsibility, and then uses this claim to prove the conclusion that abortion unjustly kills a fetus, which in turn is used to show that abortion is morally wrong. According to the above analysis of the ways that an action can fail to ethically fulfill a moral responsibility, abortion is a failure to ethically fulfill the woman's moral responsibility if and only if abortion is morally wrong. As a result, the Responsibility Objection seems to be begging the question and a form of circular reasoning. It is implicitly assuming the truth of the conclusion it is attempting to prove – that abortion unjustly kills a fetus and therefore is morally wrong – in order to claim that abortion is a failure to ethically fulfill the woman's moral responsibility, which is what the Responsibility Objection uses to try to show that abortion unjustly kills a fetus and is therefore morally wrong. This obviously cannot work, as can be seen if we assume that abortion is morally permissible as far as factors outside of the woman's moral responsibility are concerned, or in other words if we assume that the fourth way that an action can fail to ethically fulfill a moral responsibility – that the action is not morally permissible for reasons independent of the moral responsibility in question, as was the case in scenario E above – does not apply to abortion. In this case it is false that abortion is a failure to ethically fulfill the woman's moral responsibility since abortion does not fit any of the other three reasons why an action can fail to ethically fulfill a moral

responsibility, and therefore the Responsibility Objection argument fails. Put in terms of the above standard form of the Responsibility Objection argument, the argument is circular because premise (5) – which says that a woman who becomes pregnant due to voluntary intercourse and has an abortion fails to ethically fulfill her moral responsibility for meeting the need of the fetus for her body – can only be true if one first assumes the conclusion that abortion unjustly kills a fetus and is therefore morally wrong. If one does not first assume this conclusion, then premise (5) is false and the Responsibility Objection argument fails.

We can therefore conclude that without an additional argument justifying the claim that abortion is morally wrong and thereby constitutes a failure to ethically fulfill the woman's moral responsibility, there is no good reason to think that the Responsibility Objection successfully undermines Thomson's argument since it begs the question by assuming that abortion is morally wrong. Yet it is hard to see how, or for that matter why, one would try to save the Responsibility Objection. Any argument capable of saving it must show that abortion is morally wrong in order to show that abortion fails to ethically fulfill the woman's moral responsibility. But this argument would show that abortion is morally wrong, and therefore if this argument succeeds it can stand on its own as a completely new anti-abortion argument that does not require the Responsibility Objection. Therefore, it appears that the Responsibility Objection does not successfully respond to Thomson's argument because the Responsibility Objection argument only works by using the circular reasoning of assuming the conclusion to establish a premise that proves the conclusion. In addition, anything capable of saving the Responsibility Objection from this circular reasoning must also be capable of showing that abortion is

morally wrong. Since showing that abortion is morally wrong is the goal of both the Responsibility Objection and its defenders, combined with the other problems with the Responsibility Objection discussed above such as premise (1) seeming to be false, we seem to have good reason to reject the Responsibility Objection entirely.

If the above analysis and argumentation is correct then it appears that, contrary to what has typically been assumed by both sides of the abortion debate involving Thomson's argument, abortion being morally wrong does not follow even from the combination of a fetus having a right to life and a woman acquiring a moral responsibility for the fetus by participating in voluntary intercourse that results in pregnancy. There is more to be said here, and it is to this that we now turn. It seems that there are two obvious replies to the arguments put forward thus far in this chapter. The first is developing a new response to Thomson's argument that avoids the problems with the Responsibility Objection. The second is providing a plausible alternative to the above analysis of how one can fail to ethically fulfill a moral responsibility that will also show that abortion is a failure to ethically fulfill a moral responsibility for reasons other than abortion being morally wrong. There is also a third, less obvious reply that must be addressed involving the relationship between responsibility and killing.

2.7: The Thomson's Grant Reply

I will call this reply "the Thomson's Grant Reply."⁹¹ It claims that what the above arguments show is that the Responsibility Objection does not work generally against the pro-abortion position. It claims that the Responsibility Objection still works

⁹¹ I would like to thank Dr. Pat Kain and Dr. Bertha Alvarez Manninen for independently suggesting this sort of reply.

specifically against Thomson's argument and other arguments like it, and thus that Thomson-style arguments still fail even if the Responsibility Objection is circular. To see why, consider the following: Thomson grants – hence the name of the reply – that the fetus has whatever property or properties that make killing us wrong, just as much as Harry in my hunting accident scenarios. In the hunting accident scenarios we can clearly see that Dick fails to ethically fulfill his moral responsibility by killing Harry because Harry has whatever property or properties that make killing us wrong. It seems that it should be equally clear that a woman who becomes pregnant due to voluntary intercourse fails to ethically fulfill her moral responsibility by killing the fetus with abortion because the fetus is assumed to have whatever property or properties that make killing us wrong. The defender of the Responsibility Objection is giving an additional argument that abortion constitutes a failure to fulfill the woman's moral responsibility, namely that killing a being with whatever property or properties that make killing us wrong cannot ethically fulfill a moral responsibility in other examples and therefore also cannot do so when dealing with pregnancy. In other words, a fifth way in which an action can fail to ethically fulfill a moral responsibility is by killing a being with whatever property or properties that make killing us wrong. The above arguments against the Responsibility Objection still work to a limited extent, but at most what they show is that the Responsibility Objection and other responsibility-based arguments against abortion have a limited scope. For example, many pro-abortion arguments deny that a fetus has the same property or properties that make killing us wrong, so the Responsibility Objection will not work against them due to its circularity. The Responsibility Objection does work against arguments that grant that the fetus has the same property or properties that make

killing us wrong, because granting that status to the fetus makes abortion fail this fifth way in which an action can fail to ethically fulfill a moral responsibility because abortion kills the fetus.

Putting it a different way, the Thomson's Grant Reply claims that Thomson's argument is really the one that is begging the question instead of the Responsibility Objection argument. This is because it is claimed that the only way Thomson's argument can avoid the Responsibility Objection is by assuming that either abortion is morally permissible, which is what Thomson's argument is trying to prove, or fetuses do not have whatever property or properties that make killing us wrong, which contradicts premise (4) of Thomson's argument. Consider some of the cases, not including abortion, where we think that one acquires a moral responsibility for someone.⁹² There is the case of accidentally wounding another hunter, as with the various Dick and Harry scenarios covered above. There is the case of a drunk driver hitting and injuring a pedestrian. There is the case of a negligent parent leaving their child in the car on a hot day, resulting in heat exhaustion. There are other cases as well, including adopting children or pets. Note that both cases of adoption involve putting another in need – in this case by removing them from the orphanage, foster home, humane society, or the like – and thus acquiring responsibility for them, but not through doing something wrong. In all of these cases, it seems that the person who puts the other in need has clearly acquired a moral responsibility. Furthermore, the moral responsibility clearly cannot be ethically fulfilled by killing the one in need. Why should we think that a woman who becomes pregnant due to voluntary intercourse and thereby acquires a moral responsibility for the fetus is

⁹² I would like to thank Dr. Bertha Alvarez Manninen for recommending the following examples.

any different? It seems that the only ways to do so are to assume that the fetus does not have the same property or properties that make killing us wrong or that abortion is morally permissible, and either way Thomson's argument is in trouble because it either contradicts itself or uses circular reasoning. The Thomson's Grant Reply claims that pregnancy is not any different from any of these other examples, and this is supposed to show that the Responsibility Objection works against Thomson's argument in spite of its circularity.

2.8: Responding to the Thomson's Grant Reply

While the Thomson's Grant Reply sounds promising initially, I think that there are several reasons to reject it. The first reason is that the claim that Thomson's argument is really the one that is begging the question because it assumes that abortion is morally permissible does not seem at all plausible. Thomson's argument starts from three assumptions. The first is premise (1), which says that killing a being is morally wrong if and only if that being has X and the killing would be unjust. From this assumption we arrive at premise (3), which says that if a being lacks X or the killing would not be unjust, then killing that being is morally permissible. The second is premise (4), which says that fetuses have the same property or properties that make killing us wrong. The third is premise (5), which says that abortion is not an unjust killing of a fetus. Each of these assumptions is either supported by plausible reasoning – such as Thomson's analysis of what is entailed by having the same property or properties that make killing us wrong for premise (1) and Thomson's analysis of the violinist case and other cases for premise (5) – or is assumed because it is held by defenders of the anti-abortion position, as in the case of premise (4). The conclusion that abortion is morally

permissible follows logically from the conjunction of these assumptions as shown in the above standard form of Thomson's argument. It is hard to see how any of these assumptions requires that it is true that abortion is morally permissible, which makes it hard to see how one could plausibly claim that Thomson's argument is begging the question in this way. This leaves the second way in which the Thomson's Grant Reply claims that Thomson's argument is flawed, namely that it tacitly assumes that premise (4) is false and that this assumption is the only way that Thomson's argument gets to its conclusion.

The Thomson's Grant Reply claims that Thomson's argument has a hidden assumption that fetuses lack the property or properties that make killing us wrong, and it is only for this reason that Thomson's argument works. The Responsibility Objection shows that a moral responsibility clearly cannot be ethically fulfilled by killing the one in need because all of the examples used in defense of the Responsibility Objection are cases where you acquire a moral responsibility for the one in need and the one in need has the same property or properties that make killing us wrong. The Thomson's Grant Reply claims that the only way that Thomson's argument can claim that pregnancy is different is by assuming that fetuses do not have the same property or properties that make killing us wrong. What the Thomson's Grant Reply seems to claim, in effect, is something similar to the following: an action fails to ethically fulfill a moral responsibility if the action kills the one to whom the responsibility is owed. Note that this differs from the conclusion in the above analysis that an action can fail to ethically

fulfill a moral responsibility by being a morally wrong action. The claim being made here is broader, since it rules out any killing as a way to ethically fulfill a moral responsibility, not just independently wrong killings.

The second reason to reject the Thomson's Grant Reply is that it is false that killing cannot ethically fulfill a moral responsibility. Euthanasia and other end of life cases are good counterexamples. If you are a doctor who has acquired a moral responsibility for the medical care of a terminally ill patient, and the patient demands that you kill him or her with an overdose of medication, then there is some reason to think that killing the patient is the only way in which you can ethically fulfill your moral responsibility. This is a minor point since end of life cases are controversial, abortion cases do not appear to be relevantly similar to end of life cases, and the new way in which an action can fail to ethically fulfill a moral responsibility proposed by the Thomson's Grant Reply probably can be adjusted to avoid this difficulty in any case.

The third reason is that this new way does not seem to apply to abortion cases in any event. This is because abortion is first and foremost a removal of the fetus from the woman's body, since that is the only way to end the state of pregnancy. The fact that the fetus is killed by abortion is a side effect of the abortion due to our current state of technology. Compare this with the following hunting accident scenario: Dick tries to get Harry to medical care and does so, but Dick's action of carrying Harry resulted in additional internal trauma that ends up killing Harry well after receiving the needed medical care. In this scenario Dick's action was getting Harry to medical care, which was then followed by Harry being killed as a side effect. Dick's action does not seem to count as killing in the sense required for the new way to fail to ethically fulfill a moral

responsibility. Abortion is relevantly similar in that the need is met – since the fetus is no longer in need of the woman's body once removed – but ends up being killed as a side effect. The fourth and related reason is that the new way does not apply to future methods of abortion at all. Once our technology advances enough to allow for abortions where the fetus can be removed intact and then placed in permanent cold storage there will not be any killing involved in abortion at all.

The fifth reason is that the new way, namely that an action fails to ethically fulfill a moral responsibility if the action kills the one to whom the responsibility is owed, does not tell us whether or not failing to ethically fulfill a moral responsibility in this way is morally wrong, and as a result might not lead to the conclusion that abortion is morally wrong in any case. Consider the first way in which an action can fail to ethically fulfill a moral responsibility, namely that the action fails to meet the need. We noted that failure in this way is, in and of itself, not morally wrong: in scenario B detailed above Dick tries to get Harry to medical care but Harry dies en route, so he failed to ethically fulfill his moral responsibility but did not do anything morally wrong. Similarly, in the case of pregnancy, we would not think that a woman who attempts to carry the fetus to term but has a miscarriage has done anything morally wrong. This new way, that an action fails to ethically fulfill a moral responsibility if the action kills the one to whom the responsibility is owed, may well be the same. In fact, there is good reason to think that it is the same because in scenario B Dick does kill Harry but Dick has clearly not done anything morally wrong. As a result, it does not appear that you can get from Dick failing to ethically fulfill his moral responsibility in scenario B to Dick's action was

unjust or morally wrong. The same can be true of abortion: even if it does fail to ethically fulfill the woman's moral responsibility in this new way it does not follow that abortion is an unjust killing or morally wrong.

The result of all of these reasons is that the Thomson's Grant Reply does not really help the Responsibility Objection avoid the charge of circularity. The Responsibility Objection argument still appears to assume its conclusion that abortion is an unjust killing and therefore morally wrong in order to establish one of its premises. Adding a questionable new way in which an action can fail to ethically fulfill a moral responsibility that appears to be irrelevant to abortion cases is not enough to help. In effect, the Thomson's Grant Reply simply seems to repeat the initial mistake made by the Responsibility Objection, namely assuming that establishing that a woman who becomes pregnant due to voluntary intercourse acquires a moral responsibility obviously leads to the conclusion that abortion is morally wrong in these cases. This assumption is incorrect, and neither the Responsibility Objection nor the Thomson's Grant Reply refutes Thomson's argument. As a result, the main objection to Thomson's argument fails, which bolsters our judgment that Thomson's argument works.

2.9: Conclusion

The pro-abortion position is thus stronger than has previously been thought since the foremost objection to Thomson's argument appears to have been defeated, which bolsters our judgment that Thomson's argument works, which in turn gives us a good reason to think that abortion is morally permissible. Admittedly, this is not enough by itself to confer on the pro-abortion position a higher epistemic probability than the anti-abortion position, and thus not enough by itself to hold that the pro-abortion position is

the most likely to be correct and the rational one to believe to be true. This is because there are also various arguments supporting the anti-abortion position, and if any of them work, then the reasons given above for thinking that abortion is morally permissible may be overwhelmed by the reasons for thinking that abortion is morally wrong. In other words, in order for the anti-abortion position to be epistemically probable and therefore able to be rationally held to be true, the defender of the anti-abortion position must provide arguments that support the anti-abortion position while giving us good reasons to think that these arguments are better than those supporting the pro-abortion position. It is therefore important that we check to see if there are any anti-abortion arguments that appear to work, which is the project of the remainder of this dissertation.

CHAPTER 3: SUBSTANCE ANTI-ABORTION ARGUMENTS AND HANDLING HARD CASES

My third and fourth chapters will give new analyses of the most important anti-abortion arguments in the literature and show that these arguments have more problems than is currently believed. There are two major proposals in the literature about which properties make killing us wrong that are used to fill in the main anti-abortion argument. The first is having a right to life as a result of being a human substance or SUB for short, which is the proposal of Patrick Lee, Francis Beckwith, and others.⁹³ The SUB proposal will be the main focus of this chapter and will be described in detail below. The second is having a future-like-ours or FLO for short, which is the proposal of Don Marquis.⁹⁴ The future-like-ours proposal will be the main focus of the fourth chapter and will be described in detail there. I will argue in the third chapter that the substance proposal faces a dilemma: either it has highly implausible ethical implications, in which case we have good reason to think that it cannot be the correct account of why it is wrong to kill beings like you or me, or it does not show that abortion is morally wrong, in which case it

⁹³ Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54. Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. See also, for example, the following: Beckwith, Francis J. *Defending Life: A Moral and Legal Case against Abortion Choice*. New York: Cambridge University Press, 2007. Lee, Patrick and Robert P. George. *Body-Self Dualism in Contemporary Ethics and Politics*. New York: Cambridge University Press, 2008.

⁹⁴ Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

does not help the anti-abortion position. This will be shown when we look at some underanalyzed aspects of what the substance proposal claims, specifically what the truthmakers are for its core aspects, and it is to this that we now turn.

3.1: The SUB Proposal

One of the two major ways of filling in the main anti-abortion argument is the substance proposal, hereafter shortened to the SUB proposal, which is the proposal of Patrick Lee, Francis Beckwith, and others.⁹⁵ The SUB proposal claims that what makes it wrong to kill innocent human adults such as you or me is that we are the sort or type of being, namely a human substance, that essentially possesses a right to life. The SUB proposal also claims that substances are, at least for creatures, defined by the properties – in particular a set of second-order dispositions and capacities – that are inherent in and naturally developed by most members of a given type of substance as well as essential to each member of said type of substance. In the case of human substances, these are properties such as being rational, having free will, and having the capacity to make moral choices. Note that these need not be exercised for something to be a human substance: an innocent human adult remains a human substance even if he or she is sleeping and thus lacks free will precisely because he or she still has the capacity and the disposition to exercise free will. It does not even matter if these dispositions or capacities are never or can never be exercised. For example, some mentally retarded human beings may never make moral choices, but are human substances nevertheless. It follows that fetuses are

⁹⁵ Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54. Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. See also, for example, the following: Beckwith, Francis J. *Defending Life: A Moral and Legal Case against Abortion Choice*. New York: Cambridge University Press, 2007. Lee, Patrick and Robert P. George. *Body-Self Dualism in Contemporary Ethics and Politics*. New York: Cambridge University Press, 2008.

human substances because they will naturally develop rationality, free will, and moral decision-making, and the fact that they cannot exercise those dispositions or capacities now is irrelevant to their being human substances. If these claims are accepted, then it follows that abortion is morally wrong. All fetuses are human substances, and all human substances possess a right to life, so all fetuses possess a right to life. Since abortion is a violation of the right to life of a fetus, it is just as morally wrong as violating our right to life by murdering you or me.⁹⁶

The basic argument of the SUB proposal is as follows:

- 1) It is wrong to kill innocent adults such as you and me because we possess an inherent value that is high enough to grant us a right to life.
- 2) Possessing an inherent value that is high enough to grant a right to life is an essential property of a substance.
- 3) Innocent adults such as you and me are human substances.
- 4) Thus, human substances have the essential property of possessing an inherent value that is high enough to grant a right to life. [from premises 1-3]
- 5) Human substances begin to exist at the moment of conception. In other words, a fetus is a human substance.
- 6) The essential properties of a substance are all of the properties that are necessarily held by the substance at all times that it exists.

⁹⁶ Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54. Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263.

- 7) Therefore, a fetus possesses an inherent value that is high enough to grant a right to life. In turn, this entails that abortion is morally wrong in exactly the same way that killing an innocent adult like you and me is wrong. [from premises 4-6]⁹⁷

This argument form appears to be a good one. In fact, it appears to be valid, as the argument form more or less boils down to $A=B$, $B=C$, therefore $A=C$. In addition, several of the argument's premises appear to be correct. Premise 4, as well as the conclusion in 7, follows logically from the preceding premises, so they are not open to direct dispute. Premise 6 is a straightforward and widely accepted definition of what an essential property is, at least for a substance, and therefore is also not really open for dispute. Premise 1 basically amounts to "it is wrong to kill us because killing us violates our right to life that we possess for some reason." Every ethical theory, as well as both sides of the abortion debate, can agree to at least this basic statement because the disagreements on this issue are over the reason why we possess a right to life and not that we possess a right to life that makes killing us wrong. As a result, premise 1 is also not really open for dispute. This leaves premises 2, 3, and 5 as points of contention. Both Patrick Lee and Francis Beckwith defend premises 2, 3, and 5 by arguing that they are more likely to be true than any of the plausible current alternatives. If this is correct, then the SUB position itself would appear to be most likely correct. Since the SUB position being true implies that abortion is morally wrong, we should now turn to examining the justification provided for believing these premises.

⁹⁷ See page 250 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. The numbering of the premises is my own.

Premise 3 states that innocent adults such as you and me are human substances. Beckwith explains that a human substance is a being that is essentially a rational moral agent in virtue of its inherent nature. A human substance thereby inherently tends or strives towards rational moral agency even if the being is not or cannot act as a rational moral agent at the moment. For example, an innocent adult does not cease to be a human substance while sleeping. In addition, a human substance is self-identical throughout its existence, and as a result persists through change. For example, the human being writing this sentence and the human being that graduated as valedictorian of Elk Lake High School's Class of 2000 are one and the same human substance since they share the same essential properties and are physically and temporally linked, even though many other properties of the two are different. Beckwith compares human substance with feline substance, such as a domestic cat, in order to clarify the idea. A feline substance is, amongst other things, essentially a being that can purr in virtue of its inherent nature. A feline substance thereby inherently tends or strives towards purring or being able to purr even if the being is not or cannot purr at the moment. For example, a domestic cat that loses its vocal cords in an accident is still a feline substance afterwards. In addition, a feline substance is self-identical throughout its existence, and as a result persists through change. A domestic cat that has learned its name and weighs 8 pounds and the kitten that it was earlier in life, has not learned its name, and weighs 8 ounces are the same feline substance.⁹⁸

⁹⁸ See pages 33-35 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

Lee begins his defense of premise 3 by claiming that the only major alternative to the view that we are human substances is the dualist view, which says that we are actually minds or souls or some other immaterial substance that just happens to inhabit or control our bodies. Lee then claims that the dualist view is wrong, which leaves the human substances view as the only viable alternative. Lee argues that the dualist view is wrong because it cannot accurately account for how we treat individuals and actions. His argument goes roughly as follows. There is an individual person, P, who clearly thinks and does all of the other mental activities that we normally associate with being a person. That same being, P, also clearly moves and acts and does all manner of other bodily activities that we normally associate with a physical organism. But if it is the same individual being P that is a person and a physical organism, then personhood must be a property of physical organisms. In other words, since we are persons, we must be human substances and cannot be immaterial substances such as mental or spiritual substances. What we are includes our bodies, so dualism is mistaken. As a result, it follows that innocent adults such as you and me are human substances because there is no other plausible alternative, and therefore premise 3 is true.⁹⁹

Premise 5 states that human substances begin to exist at the moment of conception. Lee begins his defense of this premise by claiming that any substance that begins to exist does so due to a substantial change or, in other words, a change in essential properties. This is because being a certain sort of substance is determined by essential properties, so a new substance can only come about if the essential properties of

⁹⁹ See pages 251-252 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263.

something change from those of one kind of substance to another kind of substance. In effect, “being a substance of type S” is an essential property of every being, and the only difference is in the type filled in for S. Furthermore, there must be a plausible explanation for why a substantial change has occurred. Lee then argues that the only point in the life cycle of human beings where one can plausibly claim that a substantial change has occurred such that a new human substance begins to exist is the moment of conception. Before the moment of conception, there are only sperm and eggs. These are clearly not human substances, as they lack the essential properties of human substances such as striving towards rational moral agency. At the moment of conception when the sperm and egg fuse a new entity, the fetus, is created. The fetus is the same physical organism as the person it will later come to be, and therefore is identical to the person it will later come to be. But since the person it will later come to be is a human substance, and being a human substance is an essential property, it follows that the fetus must also be a human substance. Furthermore, since all changes from the creation of the fetus onward until death are merely changes in accidental properties such as degree of development or use of capacities, there would be no plausible explanation for why a substantial change has occurred after the moment of conception but before death. As a result, human substances begin at the moment of conception because cannot be any other alternatives.¹⁰⁰

¹⁰⁰ See pages 257-258 of: Lee, Patrick. “The Pro-Life Argument from Substantial Identity: A Defence.” *Bioethics* 18.3 (June 2004): 249-263.

Premise 2 states that possessing an inherent value that is high enough to grant a right to life is an essential property of a substance. It is the only remaining controversial premise in the argument for the SUB proposal. It is also the most controversial, and as such has been written about the most. Lee and Beckwith both begin their respective defenses of premise 2 by claiming that the only viable alternative is the view that possessing an inherent value that is high enough to grant a right to life is an accidental property of a substance. Lee and Beckwith then both claim that this alternative is wrong because it has implausible ethical consequences, which leaves premise 2 as the only viable option.¹⁰¹

Beckwith argues that the view that the right to life is an accidental property must be wrong because it cannot handle at least one set of important examples. The main problem stems from an example that is a twist on the case of a temporarily comatose human being. Imagine that the cause of the coma also produces complete and extreme amnesia. As a result, while the human being will eventually recover from the coma he or she is in the same state as a fetus, namely starting with practically nothing and having to develop just about every mental property from scratch. Is it morally permissible to kill this human being while he or she is in the coma? Beckwith claims that his view, that the right to life is an essential property, easily answers that it is morally wrong to kill this human being because he or she is a human substance that essentially possesses the right to life. The view that the right to life is an accidental property, on the other hand, has trouble with this example. It seems that this view must answer that it is morally

¹⁰¹ See page 252 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. See page 36 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

permissible to kill this human being because he or she is in the same state as a fetus, namely lacking any morally relevant accidental properties. It is hard to see what the morally relevant difference is between this human being and a human being in a typical temporary coma, which seems to imply that the view that the right to life is an accidental property entails the falsehood that it is morally permissible to kill the temporarily comatose. As a result, the view that the right to life is an essential property is the only viable option.¹⁰²

Lee argues that the view that the right to life is an accidental property must be wrong for a different and more complicated reason. We know that the right to life cannot be based upon or granted by the actions of a being. This is because we have several examples of cases where a being clearly has a right to life but cannot take any morally relevant actions. The most obvious examples are people who are deeply asleep and people who are temporarily comatose. These people cannot take any actions due to their mental states, or lack thereof, but nonetheless clearly have a right to life. But if there are no actions that can grant a right to life, then the right to life must be granted by a disposition or capacity. This is because dispositions and capacities are enduring and can be possessed by a being even if the related actions cannot currently be performed by the being. Therefore, Lee can accommodate examples like the sleeping person and the temporarily comatose person: while someone in a temporary coma cannot act, he or she

¹⁰² See pages 37-40 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

certainly has the disposition to act like a person and the capacity to think like a person and so forth since he or she could or would do these things were it not for the injury that caused the temporary coma.¹⁰³

Lee then claims that a fetus has the same morally relevant dispositions and capacities as the sleeping person and the temporarily comatose person. This is because a fetus, just like the sleeping person and the temporarily comatose person, cannot currently act but could or would perform the actions we normally associate with persons were it not for the fetus's present immature state of development, or lack thereof as the case may be. Lee makes two comparisons to demonstrate this point. The first is comparing a human fetus to a cat fetus or a dog fetus. It is certainly true that none of these beings can perform the actions we normally associate with persons because none of these beings can act at all. Nonetheless, there is an important difference between a human fetus and either a cat fetus or a dog fetus regarding performing the actions we normally associate with persons. A cat fetus or a dog fetus cannot perform the actions we normally associate with persons because such a fetus is not the sort of being, biologically speaking, that can be a person. After all, cats and dogs cannot perform the actions we normally associate with persons even if fully grown and functional because they are not human substances or any other sort of substance that can have the property of personhood. A human fetus, on the other hand, cannot perform the actions we normally associate with persons because such

¹⁰³ See page 252 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263.

a fetus is not in the sort of state, biologically speaking, that allows for personhood. A human fetus can and will perform the actions we normally associate with persons if fully grown and functional since it is a human substance.¹⁰⁴

This means that a human fetus, unlike either a cat fetus or a dog fetus, has a disposition or capacity to perform the actions we normally associate with persons that cannot currently be used due to its current circumstances, in this case being at an early developmental stage. This does not differ in kind from the sleeping person or the temporarily comatose person, who also have a disposition or capacity to perform the actions we normally associate with persons that cannot currently be used due to its current circumstances of either being asleep or being in a temporary coma. The second comparison is between this disposition or capacity to perform the actions we normally associate with persons and the disposition or capacity to run a marathon. While someone who is out of shape cannot run a marathon, that same person can reasonably be said to have the disposition or capacity to run a marathon on the grounds that the person would be able to run a marathon after certain innate abilities have been developed, in this case the innate ability to run developed through physical training. A fetus is in a comparable position: it can reasonably be said to have the disposition or capacity to perform the actions we normally associate with persons on the grounds that it will be able to perform

¹⁰⁴ See pages 252-253 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263.

these actions after certain innate abilities have been developed, in this case the innate ability to think and act as a rational moral agent developed through the process of fetal development and then growing up.¹⁰⁵

The above comparisons and arguments seem to indicate that a fetus has the same morally relevant dispositions and capacities as other beings that possess a right to life, which in turn indicates that fetuses possess a right to life. Lee claims that the only way to avoid this conclusion is to claim that the morally relevant dispositions and capacities that grant a right to life are not the ones Lee has been using but rather those that can be exercised in some immediate sense. In other words, Lee claims that rejecting his arguments requires making a certain level of development a prerequisite for the dispositions and capacities that grant a right to life. Let us momentarily return to Lee's example of the disposition or capacity to run a marathon to see this difference more clearly. When asked if someone who is out of shape can run a marathon, there are in fact two relevant answers. The answer Lee prefers is "yes," since the person who is severely out of shape has the disposition or capacity to run a marathon because he or she could do so after training. The disposition or capacity that Lee is referring to more or less relates to physical possibility, since the person is the same sort of being as other beings that can run a marathon. The other answer is "no," since the person who is out of shape does not have the disposition or capacity to run a marathon because he or she clearly cannot do so right now. The disposition or capacity that this other answer is referring to more or less relates to accessibility or usability, since the person cannot run a marathon right now.

¹⁰⁵ See pages 252-253 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263.

Now let us return to the question of whether or not a fetus has the disposition or capacity to perform the actions we normally associate with persons. Lee's answer is "yes," because a fetus will develop into a person. The other answer is "no," because a fetus is not now a person. The next important question is: which of these two answers, and in turn which of these dispositions or capacities, is morally relevant in determining possession of a right to life? On Lee's answer a fetus does have a right to life because it has the same disposition or capacity that gives an innocent adult such as you or me a right to life. On the other answer a fetus lacks a right to life because it does not have the same disposition or capacity that gives an innocent adult a right to life. Which of these is correct?¹⁰⁶

Lee gives two reasons why he thinks that his answer is correct and the other answer fails, which Beckwith also accepts. The first reason is that basing a difference in treatment on a difference in development or quantity of a property requires questionable arbitrariness. After all, human beings are constantly undergoing development, and therefore have a difference in quantity, of mental abilities and other properties indicative of personhood. In order to claim that the morally relevant disposition or capacity to perform the actions we normally associate with persons that grants a right to life is the immediately usable sort, a level or degree of development or quantity must be chosen as a cutoff point where everything at or above the point is immediately usable and therefore has a right to life and everything below the point is not immediately usable and therefore lacks a right to life. But any cutoff point that is chosen will be chosen arbitrarily, since

¹⁰⁶ See page 253 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263.

there does not appear to be any obvious method for objectively choosing the cutoff point and every choice must contend with difficult cases. This is a problem because it appears to be morally questionable to base a difference in treatment, especially one so great as whether a being has or lacks the right to life, on something so arbitrarily chosen. Lee's answer does not have this problem because, on the assumption that the morally relevant disposition or capacity to perform the actions we normally associate with persons that grants a right to life is the physically possible sort, the moment of conception is the only possible cutoff point and is thus not arbitrarily chosen. Therefore, Lee's answer is the correct one.¹⁰⁷

The second reason is that basing a difference in treatment on a difference in development or quantity of a property requires a rejection of the concept of equal rights. After all, human beings are constantly undergoing development, and therefore have a difference in quantity and degree of mental abilities and other properties associated with personhood. But if these properties vary from being to being, and these properties are the ones that grant moral rights such as the right to life, then it appears to follow that the moral rights of each being varies in accordance with the variation in these properties. For example, on the assumption that the morally relevant disposition or capacity to perform the actions we normally associate with persons that grants a right to life is the immediately usable sort, people with a higher IQ or who otherwise have more or more developed mental abilities would appear to have a greater right to life than those with a lower IQ and so forth. This is a problem because it contradicts the widely accepted

¹⁰⁷ See pages 253-254 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. See pages 40-41 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

ethical claim that all human beings are equally worthy of moral consideration and have equal moral rights. Lee's answer does not have this problem because, on the assumption that the morally relevant disposition or capacity to perform the actions we normally associate with persons that grants a right to life is the physically possible sort, every human being equally possesses the morally relevant disposition or capacity and thus all human beings are equally worthy of moral consideration and have equal moral rights. Therefore, Lee's answer is the correct one.¹⁰⁸

Thus, it appears that there are good reasons to think that Lee is correct and the morally relevant dispositions and capacities that grant a right to life are the physically possible sort and not the immediately usable sort. This in turn gives us good reason to think that a fetus has the same morally relevant dispositions and capacities as the sleeping person and the temporarily comatose person, since all of them cannot currently act but could or would perform the actions we normally associate with persons in different circumstances. But the only properties that a fetus, a sleeping person, and a temporarily comatose person share are the essential properties that they all have in virtue of being human substances. This means that possessing an inherent value that is high enough to grant a right to life is an essential property of a substance. As a result, premise 2 of the argument for the SUB proposal is true, which in turn means that abortion is morally wrong.

¹⁰⁸ See pages 254-255 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. See pages 40-41 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

3.2: The Usual Objections

The most common objections to the SUB proposal go roughly as follows: people like us obviously possess a right to life, but this is not due to our being human substances but instead due to something else that we possess but fetuses lack. This is usually combined with criticisms of the premises of the argument for the SUB proposal. An example of this type of objection would be the David Boonin's proposal that possessing organized cortical brain activity is the basis of our right to life. This is because only beings with organized cortical brain activity can have an ideal desire to continue existing that provides an inherent value that is high enough to grant a right to life. Since, unlike us, fetuses do not have organized cortical brain activity, fetuses do not have a right to life and thus abortion is morally permissible on Boonin's proposal.¹⁰⁹ Possessing organized cortical brain activity is clearly an accidental property and not an essential property, so Boonin's proposal explicitly rejects premise 2 of the argument for the SUB proposal and therefore rejects the SUB proposal altogether. Remember that this premise says that possessing an inherent value that is high enough to grant a right to life is an essential property of a substance.

Boonin argues that this premise should be rejected because not every human being is a person or even has a right to life. For example, anencephalic infants and those who have experienced higher brain death are human beings that are clearly not persons and almost certainly lack a right to life. But they are human substances with the same

¹⁰⁹ See pages 79-81 and 115-129 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

essential properties as innocent human adults¹¹⁰ such as you and me, which indicates that the right to life is accidental and not essential. The defender of the SUB proposal can try to avoid this problem by claiming that the right to life is essential and is possessed by those without higher brain functions because they are members of a species whose paradigm cases are rational moral agents. This indicates that human beings essentially possess the property of having the disposition or capacity for rational moral agency, and it is this property that grants a right to life. Boonin rejects this attempt to get around the problem because it is unclear what the moral significance of the paradigm cases of a species is supposed to be. Why does the fact that paradigm human beings have a right to life mean that every human being has a right to life? It is difficult to see how this position does not devolve into a bad potentiality argument: any and every human being could be a paradigm human being if the situation were different, so any and every human being ought to be treated as a paradigm human being. This argument is clearly bad if “paradigm human being” is replaced with something like “President of the United States,” or “human being” is replaced with “spider” and “paradigm human being” is replaced by “person with a right to life” on the ground that unalterable biological reality is the same thing holding back the spider as is holding back an anencephalic infant. As such, this premise should be rejected, in which case the right to life is an accidental property.¹¹¹

¹¹⁰ The addition of “innocent” is standard in much of the philosophical literature on abortion, and so far as I can tell is solely intended to bracket issues such as capital punishment. I am following this usage, although it makes no relevant difference to the arguments in this dissertation. I would like to thank Dr. Martin Curd for pointing out the need for this clarification.

¹¹¹ See pages 23-27 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

Another objection is that of Dean Stretton. Stretton argues that the morally relevant dispositions and capacities that grant a right to life must be those that can be exercised in some immediate sense and are accidental rather than those that it is physically possible to exercise and are essential. The argument roughly proceeds as follows. Imagine that you possess, in a vat or within whatever you use to safely store spare brains, the brain of a typical human adult that has never been used. Imagine also that we have available some non-human animal that normally lacks a right to life, such as a lower primate or dog. Now imagine that we transplant the brain of the human into the non-human animal such that the non-human animal is now a rational moral agent capable of performing all of the actions we normally associate with persons. It seems clear that the non-human animal has now become a person and now has a right to life. It also seems clear that the non-human animal is the same organism as it was before the transplant just as it would be the same organism before and after a transplant of a kidney or a genetically engineered organ that would allow it to eat previously toxic foods without harm. After all, the non-human animal is the same substance with the same essential properties before and after the transplant. But this implies that the morally relevant dispositions and capacities that grant a right to life are the immediately usable sort and not the physically possible sort, since the non-human animal only gained the right to life after the transplant when it became immediately able to perform all of the actions we normally associate with persons. In other words, possessing an inherent value

that is high enough to grant a right to life is an accidental property of a substance and not an essential property, which means that premise 2 of the argument for the SUB proposal is false and the SUB proposal should be rejected.¹¹²

Lee and Beckwith both reply that Stretton's argument is inconclusive and unhelpful, and therefore does not show that premise 2 of the argument for the SUB proposal is false. Once the brain of the human has been transplanted into the non-human animal, there are two different and competing ways to understand what happens next. The first is Stretton's way: the non-human animal remains the same substance but becomes a person and gains a right to life, thereby showing that the right to life is an accidental property of a substance. The second is Lee's way and Beckwith's way: the non-human animal undergoes a substantial change so that the non-human animal before the transplant ceases to exist by becoming a new substance that is essentially a rational moral agent. This is because, unlike before the transplant and like an innocent human adult, the non-human animal after the transplant has an innate disposition or capacity to be a rational moral agent on account of the sort of being it is. Since innate dispositions or capacities like this are essential properties of substances, the transplant must have caused a substantial change. On Lee's way of understanding Stretton's argument, possessing an inherent value that is high enough to grant a right to life is an essential property of a substance and not an accidental property, which means that premise 2 of the argument for

¹¹² See pages 238-239 of: Stretton, Dean. "The Argument from Intrinsic Value: A Critique." *Bioethics* 14.3 (July 2000): 228-239. See page 277 of: Stretton, Dean. "Essential Properties and the Right to Life: A Response to Lee." *Bioethics* 18.3 (June 2004): 264-282. See page 255 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. See page 42 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

the SUB proposal is true. Lee claims that unless Stretton can show that there are decisive reasons for preferring his own interpretation of his argument to Lee's then the argument shows nothing at all about the SUB proposal.¹¹³

Stretton replies to Lee by arguing that there are decisive reasons for preferring his own interpretation of his argument to Lee's. The main reason for preferring Stretton's interpretation to Lee's interpretation is that there is no good reason to accept Lee's rationale for why the transplant must cause a substantial change. Let us assume for the sake of argument that Lee is correct in claiming that the innate disposition or capacity to be a rational moral agent is an essential property of a substance. Lee merely assumes, rather than argues, that the non-human animal after the transplant has gained the innate disposition or capacity to be a rational moral agent rather than a different, non-innate disposition or capacity to be a rational moral agent. If this assumption is false, then Lee's interpretation is compatible with the morally relevant dispositions and capacities that grant a right to life being of the immediately usable sort that are accidental and not the physically possible sort that are essential. In fact, there is good reason to think that Lee's assumption is actually false. The reason why we think that human beings have the innate disposition or capacity to be a rational moral agent is that they naturally tend towards rational moral agency in virtue of their genetic code. The non-human animal after the transplant lacks a genetic code or anything else that naturally tends towards rational moral agency, which gives us a good reason to think that the non-human animal does not have an innate disposition or capacity to be a rational moral agent. This is supported by

¹¹³ See pages 255-256 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. See pages 42-43 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

the fact that the non-human animal's rational moral agency is solely the result of the transplant, which is obviously not innate in any meaningful sense of the term. But the non-human animal after the transplant is clearly a rational moral agent and therefore must have a disposition or capacity to be a rational moral agent that grants a right to life. This means that the disposition or capacity to be a rational moral agent that actually grants a right to life is one that is not innate or essential but accidental. We therefore have good reason to reject Lee's interpretation and accept Stretton's interpretation, in which case we still have good reason to reject premise 2 of the argument for the SUB proposal.¹¹⁴

Beckwith provides a response to Stretton's reply to Lee. Beckwith argues that Stretton's interpretation, and Stretton's whole argument for that matter, does not show that premise 2 of the argument for the SUB proposal is false as long as a minor modification is made. Remember that premise 2 says that possessing an inherent value that is high enough to grant a right to life is an essential property of a substance. Let us assume that Stretton is correct in claiming that the non-human animal becomes a rational moral agent and thereby gains a right to life after the transplant. Stretton's example does, strictly speaking, show that premise 2 is false as it is currently worded because there is at least one example where possessing an inherent value that is high enough to grant a right to life is an accidental property of a substance, but Stretton's example only shows a single case where the right to life is an accidental property, not that the right to life is an accidental property in every case. As such, Stretton has not ruled out the possibility that, while the right to life in general need not be an essential property, the right to life of

¹¹⁴ See pages 278-280 of: Stretton, Dean. "Essential Properties and the Right to Life: A Response to Lee." *Bioethics* 18.3 (June 2004): 264-282.

human substances is an essential property. This means that Stretton's argument does not touch premise 2*, which says that possessing an inherent value that is high enough to grant a right to life is an essential property of all human substances. Since the argument for the SUB proposal works just as well with premise 2* as it does with premise 2, Stretton's argument does nothing to show that the SUB proposal ought to be rejected.¹¹⁵

I will offer two new objections to the SUB proposal. One objection is a new and complementary type of objection to the SUB proposal. I will argue that several examples that do not involve abortion show that the SUB proposal must either support the pro-abortion position or be committed to highly implausible ethical implications that make it almost certainly false. Either way, the SUB proposal does not help the anti-abortion position and ought to be rejected. The other objection is an extension of Stretton's objection. I will argue that the responses of Lee and Beckwith to Stretton's objection cannot work because they subject the SUB proposal to a dilemma where both horns result in the falsehood of one of the premises of the SUB proposal argument, which implies that the SUB proposal argument cannot work. I will address this latter objection first.

3.3: The First Objection: Stretton Revisited

Let us begin this objection with a quick summary of the Stretton-Lee-Beckwith debate. Stretton argues that the right to life must be an accidental property, rather than an essential property, due to the example of transplanting the brain of a human into a non-human animal. In the example, the non-human animal lacked a right to life before the transplant, but because the transplant turns the non-human animal into a rational moral

¹¹⁵ See pages 43-45 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

agent the non-human animal possesses a right to life after the transplant. Since the non-human animal remains the same being with the same essential properties throughout the example, but originally lacks and then later gains the right to life, the right to life must be an accidental property and premise 2 of the argument for the SUB proposal must be false.¹¹⁶ Lee and Beckwith both respond by claiming that Stretton's transplant example is inconclusive. This is because Stretton has not ruled out another interpretation of the example, namely that the non-human animal undergoes a substantial change so that the non-human animal before the transplant ceases to exist by becoming a new substance that is essentially a rational moral agent. The non-human animal after the transplant has an innate disposition or capacity to be a rational moral agent on account of the sort of being it is. Since innate dispositions or capacities like this are essential properties of substances, the transplant must have caused a substantial change. If this interpretation is correct, then premise 2 of the argument for the SUB proposal must be true.¹¹⁷

Stretton and Beckwith then go on to argue about whether or not a brain transplant like the one in the example can actually trigger a substantial change of the sort Beckwith and Lee need to rebut Stretton's analysis.¹¹⁸ Since all three appear to assume that a good argument for the conclusion that a brain transplant like the one in the example can actually trigger a substantial change is enough to overcome Stretton's objection to the SUB proposal, there is an important point here that Stretton, Beckwith, and Lee all

¹¹⁶ See pages 238-239 of: Stretton, Dean. "The Argument from Intrinsic Value: A Critique." *Bioethics* 14.3 (July 2000): 228-239.

¹¹⁷ See pages 255-256 of: Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263. See pages 42-43 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

¹¹⁸ See pages 278-280 of: Stretton, Dean. "Essential Properties and the Right to Life: A Response to Lee." *Bioethics* 18.3 (June 2004): 264-282. See pages 43-45 of: Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54.

overlook. I want to argue that accepting that a brain transplant like the one in the example can actually trigger a substantial change ends up providing support for the pro-abortion position and not the anti-abortion position. If this is correct, then Lee and Beckwith have given a self-defeating response to Stretton, in which case Stretton's objection to the SUB proposal still stands. To see the problem with Lee's reply and Beckwith's reply to Stretton's objection, let us begin with the crux of their replies: a brain transplant like the one in the example can actually trigger a substantial change. Remember that, according to the example, the non-human animal was not a rational moral agent prior to the transplant because the non-human animal was utterly incapable of rational moral agency. After the transplant the non-human animal becomes a rational moral agent in virtue of acquiring the brain hardware and mental processes that are necessary for rational moral agency.

But note what this entails when combined with the crux of their replies: acquiring the brain hardware and mental processes that are necessary for rational moral agency is the sort of event that triggers a substantial change from a substance without a right to life to a substance with a right to life. Now a new problem for the SUB proposal arises. Why can it not be the case that a fetus undergoes a substantial change from a substance without a right to life to a substance with a right to life once it acquires the brain hardware and mental processes that are necessary for rational moral agency? For example, we could distinguish between what we might call, for the sake of argument, a "mere human substance" and a "personal human substance." The former would consist of living beings that are biologically human but are not even capable of consciousness due to lacking the requisite brain hardware and mental processes and thereby lack a right to life, such as

skin grafts and cancer cells. The latter would consist of living human beings that are capable of consciousness due to possessing the requisite brain hardware and mental processes and thereby possess a right to life, such as innocent human adults, sleeping people, and temporarily comatose people. A fetus, for the first several months of its development, would be a mere human substance that lacked a right to life. Upon developing the brain hardware and mental processes necessary for consciousness, a fetus would undergo the same type of substantial change that the non-human animal undergoes in Stretton's example to become a personal human substance that possessed a right to life. In this case abortion would almost always be morally permissible since almost all fetuses are mere human substances that lack a right to life.

In fact, some pro-abortion proposals already in the literature can be quite easily converted into a pro-abortion version of the SUB proposal in just this way. For example, consider David Boonin's aforementioned organized cortical brain activity proposal. In short, this proposal says that only beings with organized cortical brain activity possess a right to life because only these beings can have an ideal desire to continue existing that provides an inherent value that is high enough to grant a right to life.¹¹⁹ Now, acquiring organized cortical brain activity is the same as acquiring the brain hardware and mental processes that are necessary for rational moral agency. After all, if you have one then you have both, and if you lack one you also lack the other. But if acquiring organized cortical brain activity in Stretton's transplant example is the sort of event that triggers a substantial change from a substance without a right to life to a substance with a right to

¹¹⁹ See pages 79-81 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

life, as per the responses of Lee and Beckwith, then we can convert the organized cortical brain activity proposal into a version of the SUB proposal. The SUB version of the organized cortical brain activity proposal would claim that possessing a right to life is an essential property of a “higher-thinking substance,” where the hallmark of this substance is possessing organized cortical brain activity. This proposal would be a version of the SUB proposal that is pro-abortion rather than anti-abortion: a fetus is not the kind of substance that possesses a right to life until it undergoes a substantial change into a “higher-thinking substance” at the onset of organized cortical brain activity late in development.¹²⁰

As a result of the above, it appears that Stretton’s objection to the SUB proposal is much stronger than has been thought. The problem for the responses of Lee and Beckwith can be put as a dilemma. Either acquiring the brain hardware and mental processes that are necessary for rational moral agency is the sort of event that triggers a substantial change from a substance without a right to life to a substance with a right to life, or it is not. If so, then possessing the right to life is an essential property of a substance, Stretton’s transplant example can be successfully dealt with, and premise 2 of the SUB proposal argument is true. But, if so, then there is no longer any good reason to accept premise 5 of the SUB proposal argument, which says that human substances begin to exist at the moment of conception. The fact that acquiring the brain hardware and mental processes that are necessary for rational moral agency is the sort of event that

¹²⁰ A similar case can also be made for Bonnie Steinbock’s interest view, which claims that acquiring the brain hardware and mental processes necessary to consciously experience pleasure and pain is the point at which a right to life is acquired. See pages 472-474 of: Steinbock, Bonnie. “Why Most Abortions are Not Wrong.” Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482. See also, for example, the following: Steinbock, Bonnie. *Life Before Birth: The Moral and Legal Status of Embryos and Fetuses*. New York: Oxford University Press, 1992.

triggers a substantial change from a substance without a right to life to a substance with a right to life provides another point during human development other than conception where a substantial change can occur. Furthermore, a combination of maintaining consistency with Lee's and Beckwith's analysis of Stretton's transplant example and the arguments raised by people such as Boonin in support of proposals that can easily be made into versions of the SUB proposal strongly indicates that premise 5 of the SUB proposal argument is false.

On the other hand, if acquiring the brain hardware and mental processes that are necessary for rational moral agency is not the sort of event that triggers a substantial change from a substance without a right to life to a substance with a right to life, then premise 5 of the SUB proposal argument is true because there are no points during human development other than conception where a substantial change can occur. In that case, since there is no plausible alternative to Stretton's analysis of his transplant example, we are back to having good reason for thinking that premise 2 of the SUB proposal argument, which says that possessing a right to life is an inherent property of a substance, is false. This means that the responses of Lee and Beckwith to Stretton's objection cannot work: either they do not actually respond to the objection, or they do so in a way that entails the falsity of another premise in the SUB proposal argument. Therefore, unless a new response to Stretton's objection is developed, it appears that we have good reason to reject the SUB proposal. This criticism notwithstanding, now I would like to raise a new and complementary objection to the SUB proposal. In order to see this new objection, we need to begin by examining some basic standards that the SUB proposal must meet to be successful.

3.4: Requirements for Success

There are at least three necessary conditions that the SUB proposal must meet in order for it to be successful in filling in the main anti-abortion argument. The first condition is that the proposal must show that abortion is morally wrong. The second condition is that the proposal must avoid having highly implausible moral implications when applied to situations that have nothing to do with abortion. These two conditions are generic necessary conditions that any proposal must meet in order for it to be successful in filling in the main anti-abortion argument. The last necessary condition is specific to the SUB proposal, namely that being a human substance cannot be a brute fact.¹²¹ In other words, there must be some fact or facts about the world that make it the case that certain beings are human substances and others are not.

There are at least two good reasons for thinking that it is a necessary condition for the SUB proposal to be successful that being a human substance cannot be a brute fact. First, claiming that fetuses are human substances and that this is a brute fact is, at a minimum, patently begging the question against the pro-abortion position. The abortion debate would devolve into something ridiculous and unhelpful, such as the following fictional exchange:

¹²¹ I take a brute fact to be a proposition about the world that just is true and there is no explanation for why it is true. Brute facts are contingent truths, since necessary truths have an explanation for why they are true, namely that they could not be otherwise. The existence of brute facts is incompatible with the truth of the Principle of Sufficient Reason, but this is not relevant for the arguments in this chapter because the SUB proposal cannot claim that being a human substance is a brute fact. As a result, I will set this issue aside.

Pro-abortion defender: Why is abortion morally wrong?

Anti-abortion defender: Because a fetus is a human substance and human substances essentially possess a right to life.

P: All right, but why should we think that a fetus is a human substance?

A: Because fetuses just are human substances.

P: But I think that a being cannot be a human substance unless it can have mental states, or something similar.

A: You are wrong. Having mental states does not make a being a human substance.

P: Then what does?

A: Nothing. There is no explanation because it is a brute fact.

P: Then how do you know that fetuses are human substances? Couldn't I just as easily claim that it is a brute fact that fetuses are not human substances?

A: Don't be silly. It's just obvious that fetuses are human substances.

P: Isn't that just assuming that fetuses have a right to life and therefore that abortion is morally wrong?

The second reason, which is related but more important, is that there would be no way of knowing which beings are human substances and which are not if being a human substance was a brute fact. This is because there are no truthmakers for the claim "X is a human substance," or anything similar, that you can point to in order to show which beings are human substances. For example, if you said "all beings with human DNA are human substances" or "all beings with a rational mind are human substances," then you could know which beings are human substances by applying the definition. In these cases being a human substance is not a brute fact because it is definable, is analyzable, and can be explained: having human DNA or a rational mind would make something a human substance, and we can thereby know which beings are human substances by looking for the things that make them human substances. If being a human substance was a brute fact on the other hand, then this could not be done. It would be just as plausible to say that you and I are not human substances while every grain of sand on

Daytona Beach is a human substance as to say that at least every innocent human adult is a human substance. Since this is clearly incorrect, it must be the case that being a human substance is not a brute fact.¹²²

This establishes that any version of the SUB proposal that is even worth considering must explain which properties make a given being a human substance. Let us now cover each of the two generic necessary conditions that apply to the SUB proposal, which explain how we evaluate the properties that are said to make a given being a human substance in order to see if it results in a successful filling-in of the main anti-abortion argument. In order to be successful, the first necessary condition is that the SUB proposal must show that abortion is morally wrong. This is because any proposal that implies that abortion is morally permissible supports the pro-abortion position and thus cannot successfully fill in the main anti-abortion argument. An example of a proposal that fails this first necessary condition is Bonnie Steinbock's interest proposal. Steinbock claims that possessing an inherent value that is high enough to grant a right to life can only arise from having an interest in or desire to continue existing. In other words, the reason why it is morally wrong to kill a being with a right to life is that it frustrates morally relevant interests in continuing to exist. For example, rocks and trees do not possess a right to life while human beings do possess a right to life, and the

¹²² I am not saying that if there is no explanation for some fact F, then there is no way to distinguish between Fs and not-Fs. This seems to be false. For example, if it is a brute fact that the universe exists, then it does not follow that we cannot date the Big Bang because we cannot distinguish between when the universe existed and when it did not. I am saying something much more restricted: if your definition of a property P includes that possessing the property is a brute fact, then there is no non-arbitrary or non-question-begging way to distinguish between entities that possess P and entities that lack P. In other words, I am claiming that if it is a brute fact that some things possess a property and other things do not, then there is no rational way to tell which things possess the property. This seems to be true for the reasons noted, and is all that is necessary to require that the SUB proposal must explain which properties make a given being a human substance in order to be successful. I would like to thank Dr. Mark Bernstein for pointing out the need for this clarification.

important difference between human beings and things like rocks and trees appears to be that human beings care about and have a vested interest in what happens to them. Steinbock argues that a necessary prerequisite of having any interests at all is possessing sentience, which is the ability to feel pleasure and pain. Sentience is a necessary prerequisite for having interests because only a being that can experience pain or pleasure is capable of the most basic level of interests, namely caring about whether or not it is experiencing pain or pleasure. As a result of this, even if Steinbock's interest proposal worked perfectly as an explanation for why it is wrong to kill innocent adults such as you and me and provided a thorough account of the ethics of killing, the interest proposal would show that abortion is morally permissible. This is because fetuses do not have sentience: during the first several months of their development, it is physically impossible for fetuses to feel pain or pleasure since they lack the brain development to have the capacity for sentience. It follows that fetuses, just like rocks and trees and other inanimate objects, cannot have interests and thus cannot have a right to life. Therefore, the interest proposal cannot successfully fill in the main anti-abortion argument.¹²³

In order to be successful, the second necessary condition is that the SUB proposal must avoid having highly implausible moral implications when applied to situations that have nothing to do with abortion. This is because any proposal with highly implausible moral implications is extremely unlikely to be correct and should therefore be rejected. This is especially important when the situations in which a proposal gives highly implausible moral implications are situations that do not involve abortion, since they are

¹²³ See pages 472-474 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482.

much more likely to be situations where defenders of both the pro-abortion and anti-abortion positions can agree on what counts as highly implausible and why.

Furthermore, accepting highly implausible moral implications in situations that do not involve abortion simply to reach the conclusion that abortion is morally wrong is dubious reasoning at best, and also appears to be question-begging against the pro-abortion position since it assumes that the hallmark of a correct proposal is that it supports the anti-abortion position. An example of a proposal that fails this second necessary condition is what I will call the biological humanity proposal. The biological humanity proposal claims that a sufficient condition for possessing an inherent value that is high enough to grant a right to life is being biologically human, which can be specified in a number of ways: being a member of the species *Homo sapiens*, or having human DNA, or being made up of human cells, or something similar. If the biological humanity proposal is correct, then it meets the first necessary condition by showing that abortion is morally wrong. This is because a fetus is just as biologically human as an innocent adult such as you and me, and thus a fetus has the exact same right to life as you and me and it is just as wrong to kill a fetus as it is to kill you and me. The biological humanity proposal fails the second necessary condition because it appears to have several patently false implications, and as such is a highly implausible proposal. One example of this is cancer cells. Cancer cells appear to be biologically human since they have human DNA, are human cells, and so forth. It thus appears that according to the biological humanity proposal it would be morally wrong to kill cancer cells. It is obviously morally permissible to kill cancer cells, so the biological humanity proposal appears to have a patently false implication that renders it highly implausible. Another example would be

extraterrestrial persons. An extraterrestrial person would not be biologically human due to lacking human DNA and human cells and so forth. It thus appears that according to the biological humanity proposal, at least without another proposal to cover other sufficient conditions for possessing an inherent value that is high enough to grant a right to life, it would be morally permissible to kill an extraterrestrial person. It is obviously morally wrong to kill any persons, including non-human ones such as extraterrestrial persons, so the biological humanity proposal appears to have another patently false implication that renders it highly implausible. Many more problem examples can be raised involving things such as skin grafts, non-human non-person creatures with human DNA added, and the like. Therefore, the biological humanity proposal is almost certainly false and so cannot successfully fill in the main anti-abortion argument.

3.5: The Second Objection: The Dilemmas Facing the SUB Proposal

I will argue that the SUB proposal faces a problem: it must fail at least one of these two necessary conditions for successfully filling in the main anti-abortion argument. If this is correct, then the SUB proposal cannot successfully account for why abortion is morally wrong. In this case, the defender of the anti-abortion position must either accept the pro-abortion position as more likely to be true or find another proposal that will successfully fill in the main anti-abortion argument. This problem will be explained through a series of examples involving either stored IVF zygotes, or the creation, destruction, or transfer of consciousness. Each example will reveal a dilemma for the SUB proposal wherein each possible answer must fail at least one of the two

necessary conditions for successfully filling in the main anti-abortion argument. These dilemmas will be revealed by carefully examining the truthmakers¹²⁴ for the claims made by the SUB proposal.

Let us first consider what I will call the accidentally nonviable IVF zygote example. In this example, imagine that a zygote is formed in a clinic for the purpose of being used for *in vitro* fertilization – hereafter IVF – treatment. While it is in storage, a freak accident irreversibly renders the zygote nonviable: it cannot be successfully implanted, and in any case will never grow beyond the zygote stage for its entire existence. The zygote is not changed in any other way: if left alone, the zygote will continue to live out a full human lifespan in storage as a zygote. The question that should now be asked of the defender of the SUB proposal is: is it morally wrong or morally permissible to kill the accidentally nonviable IVF zygote?

If the defender of the SUB proposal answers that it is morally wrong to kill the zygote, then it must be because the zygote is a human substance. After all, according to the SUB proposal, being a human substance is what makes killing an innocent human adult morally wrong, as well as what makes killing a human fetus morally wrong. It stands to reason that killing the zygote would be morally wrong because it too is a human substance. If it is wrong to kill an innocent adult and wrong to kill the zygote for the same reason, namely that they are both human substances, then the truthmakers for the

¹²⁴ I am assuming that the correspondence theory of truth is correct. This appears to be a generally accepted point in most of philosophy in general and in the abortion debate in particular. I take a truthmaker for some proposition P to be something like the state of affairs or something similar to which P accurately corresponds. If P is false, then P has no truthmaker and not-P has a truthmaker. If P is true, then P's truthmaker will be that part of reality of which P is an accurate description. Much more could be said here, but I think that this sketch of how I am using the term "truthmaker" should suffice to make my arguments clear, and nothing in the arguments should hinge upon the technicalities of the term "truthmaker."

claims “an innocent adult is a human substance” and “the accidentally nonviable IVF zygote is a human substance” must be a common property or set of properties that the adult and the zygote share.¹²⁵ But what properties do an innocent adult and the accidentally nonviable IVF zygote actually have in common?

The adult and the zygote do not share a great many properties that are commonly thought to be morally relevant. They do not share any mental properties because, unlike the adult, the zygote does not and cannot have any mental properties. They do not share any meaningful stages or types of development because, unlike the adult, the zygote will never develop any further. They do not share any relevant future prospects because their futures are so vastly different. They do not share in rational moral agency because, unlike the adult, the zygote is not and can never be a rational moral agent. It is even difficult to see how they could share the most basic dispositions or capacities since the zygote is permanently stuck at its level of development and thus it is impossible for the zygote to ever do just about anything that an adult can do. In fact, the accidentally nonviable zygote seems to share its seemingly morally relevant properties not with innocent adults, but rather with mollusks, tapeworms, and other creatures that are not and will never be persons.

¹²⁵ Remember that the SUB proposal is a proposal to fill in the main anti-abortion argument, which says that it is wrong to kill fetuses for the exact same reason that it is wrong to kill innocent adults. This is why the truthmakers for these claims about being a human substance must rely upon common properties. If they did not rely upon common properties, then the SUB proposal would appear to amount to special pleading that fetus-only properties must make it just as wrong to kill fetuses as innocent adults, and this is something that defenders of the SUB proposal are explicitly trying to avoid. I would like to thank Dr. Mark Bernstein for pointing out the need for this clarification.

Yet, if the defender of the SUB proposal answers that it is morally wrong to kill the zygote, and it is wrong to kill the zygote for the same reason that it is wrong to kill an innocent adult, then there must be a property that the zygote and the adult share that gives us a reason for thinking that both the zygote and the adult are equally human substances. By this point it seems that the only properties that the adult and the zygote share are strictly biological properties. After all, both are members of the species *Homo sapiens*, both have human DNA, both are made up of human cells, and so forth. If this is correct, then “X is a human substance” is logically equivalent to “X is biologically human” because they have the exact same truth values for every X. But if being a human substance is what grants a right to life, and being a human substance is just being biologically human, then the SUB proposal is really the aforementioned biological humanity proposal put into different words. We have already seen in the counterexamples presented above that the biological humanity proposal is surely incorrect because it has many highly implausible ethical implications. As such, the biological humanity proposal fails the second necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected. Since the SUB proposal is just the biological humanity proposal in different words, then it has the exact same problem in this case. As a result, if the defender of the SUB proposal answers that it is morally wrong to kill the zygote, then the SUB proposal fails the second necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected.

One response here might be to claim that I am missing an important fact about substances. Remember that the SUB proposal claims that substances are, at least for creatures, defined by the properties – in particular a set of second-order dispositions and capacities – that are inherent in and naturally developed by most members of a given type of substance as well as essential to each member of said type of substance. It might be argued that I am overlooking the “naturally developed by most members” part. While it is certainly true that the accidentally nonviable IVF zygote obviously will not develop or use these inherent properties, dispositions, and capacities, most human substances will and the zygote’s similarity to other human substances is enough for it to also qualify as a human substance.¹²⁶ This response will not work for at least two reasons. First, there is the aforementioned criticism by Boonin of using paradigm cases of a species to try to establish that every member of a species is a certain type of substance. This criticism is twofold: there is no good reason to think that the fact that paradigm human beings have a right to life entails that every human being has a right to life due to the unclear moral significance of paradigm cases of a species, and it appears that using paradigm cases of a species in this way devolves into a bad potentiality argument.¹²⁷ Second, this response does not really rebut the arguments given above so much as it moves them back one step at best. Even if we define human substance as those creatures where most of their members develop rational moral agency, then it does not automatically follow that the arguments given above fail and thus there is no problem in holding that it is morally

¹²⁶ Beckwith, Francis J. “The Explanatory Power of the Substance View of Persons.” *Christian Bioethics* 10.1 (January-April 2004): 33-54. Lee, Patrick. “The Pro-Life Argument from Substantial Identity: A Defence.” *Bioethics* 18.3 (June 2004): 249-263.

¹²⁷ See pages 23-27 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

wrong to kill the zygote because it is a human substance. We would first need to establish that the zygote meets this definition of a human substance. When we look into establishing this the arguments given above still apply: the only viable reason for thinking that the zygote is the sort of creature where most of the members develop rational moral agency is that the zygote shares biological humanity with innocent adults. But in this case the SUB proposal is once again just the biological humanity proposal in different words, and since the biological humanity proposal is implausible and ought to be rejected, the same still applies to the SUB proposal.

On the other hand, if the defender of the SUB proposal answers that it is morally permissible to kill the zygote, then it must be the case that the zygote is not a human substance. After all, according to the SUB proposal, being a human substance is what makes it morally wrong to kill an innocent adult. If it is morally permissible to kill the accidentally nonviable IVF zygote, then the zygote cannot be a human substance. If it is morally permissible to kill the zygote because it is not a human substance, but it is morally wrong to have an abortion because a regular fetus is a human substance, then there must be some difference between the zygote and a regular fetus that explains why only the latter is a human substance. In other words, there must be a property that a regular fetus possesses and the zygote lacks that provides the truthmakers for the claims “a regular fetus is a human substance” and “the accidentally nonviable IVF zygote is not a human substance.” But what relevant differences are there between the zygote and a regular fetus?

As it turns out, the zygote and a regular fetus are extremely similar. The zygote and a regular fetus are the same as regards being biologically human, since both are members of the species *Homo sapiens*, both have human DNA, both are made up of human cells, and so forth. The zygote and a regular fetus also appear to be the same regarding mental properties, meaningful stages and types of development, relevant future prospects, and rational moral agency. To see why, let us first consider the case of an innocent adult with a terminal illness. The SUB proposal entails that it is morally wrong to kill this adult because the terminal illness does not stop the adult from being a human substance. Now let us consider the case of a fetus that will miscarry in the future. This case appears to directly parallel the case of the innocent adult with a terminal illness. If the impending death of the adult does not stop it from being a human substance, then it should follow that the impending death of the fetus also does not stop it from being a human substance. Therefore, according to the SUB proposal, aborting a fetus that will miscarry in the future is morally wrong because that fetus is still a human substance. A fetus that will miscarry in the future is exactly like the accidentally nonviable IVF zygote regarding mental properties, meaningful stages and types of development, relevant future prospects, and rational moral agency. After all, neither one will be able to actually achieve or possess any of these things. But a fetus that will miscarry in the future is a human substance that it is morally wrong to kill, while the zygote is not a human substance that it is morally permissible to kill. This means that mental properties, meaningful stages and types of development, relevant future prospects, and rational moral agency cannot be the relevant differences that make the zygote different than a regular fetus.

There appear to be only two options remaining. The relevant difference between the zygote and a regular fetus that explains why only the latter is a human substance either lies in the dispositions or capacities of each, or there is in fact no relevant difference to be found. Let us start with the latter of these two options because it is much easier to explain. If there is no relevant difference between the accidentally nonviable IVF zygote and a regular fetus, and it is morally permissible to kill the zygote because it is not a human substance, then it must follow that it is also morally permissible to kill a regular fetus because it is not a human substance. This option obviously leads to the conclusion that abortion is morally permissible because fetuses clearly lack the right to life, in which case the SUB proposal actually supports the pro-abortion position. Therefore, picking this option results in the SUB proposal failing the first necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected.

Let us now return to the former option, where the relevant difference between the accidentally nonviable IVF zygote and a regular fetus lies in the dispositions or capacities of each. Not all of their respective dispositions or capacities are different, though: neither one possesses any immediately exercisable dispositions or capacities to be a rational moral agent or the like since neither one currently has the necessary level of brain development, and both possess the same dispositions or capacities relating to their species membership, DNA, and such. The only real difference in dispositions or capacities appears to lie in those related to development, since a regular fetus but not the zygote can actually develop into a rational moral agent or something similar.

The claim that a regular fetus is a human substance while the zygote is not because only the former can actually develop into a rational moral agent or something similar has highly implausible ethical implications. One example of this involves a parallel case to that of the accidentally nonviable IVF zygote: imagine that a freak accident in the obstetrics ward of a hospital results in a newborn infant being irreversibly stuck at that stage of development for its entire existence, so that if left alone the infant will live out a full human lifespan as an infant. This infant, just like the accidentally nonviable IVF zygote, cannot actually develop into a rational moral agent or something similar. If it is morally permissible to kill the zygote but not a regular fetus because only the latter can actually develop into a rational moral agent or something similar, then it must also be morally permissible to kill this infant. But this seems to be clearly incorrect because all infants, including this infant even though it will never grow up, have a clear right to life. Therefore, this example shows that dispositions or capacities related to development cannot be the sorts of properties the possession of which makes a being a human substance, and thus cannot grant a right to life according to the SUB proposal.

Another example involves the severely mentally retarded. Consider the following quote from Francis Beckwith, who is describing what makes a being a human substance that possesses a right to life on the SUB proposal: “The human being is a particular type of substance – a rational moral agent – that remains identical to itself as long as it exists, even if it is not presently exhibiting the functions, behaving in ways, or currently able to immediately exercise these activities that we typically attribute to active and mature

rational moral agents.”¹²⁸ The accidentally nonviable IVF zygote is not presently able to do anything an “active and mature rational moral agent” can do. According to the quote, this should not rule it out as a human substance. This will continue to be the case for the zygote’s entire existence, and maybe this additional fact can explain why the zygote is not a human substance while a regular fetus is a human substance. But now, let us compare this with the severely mentally retarded, who are also not presently able to be rational moral agents, and this will continue to be the case for their entire existence. If being permanently prevented from reaching the state of “active and mature rational moral agent” means that the being in question is not a human substance just like the zygote, and being a human substance is what grounds having a right to life, then it seems that the severely mentally retarded, amongst others, do not have a right to life. Put another way, the severely mentally retarded have exactly the same relevant dispositions or capacities as the zygote, since they too cannot actually develop into a rational moral agent or something similar. But this would mean that the severely mentally retarded are also not human substances and it is morally permissible to kill them. This seems to be clearly incorrect because the severely mentally retarded have a clear right to life. Therefore, this example shows that dispositions or capacities related to development cannot be the sorts of properties the possession of which makes a being a human substance, and thus cannot grant a right to life according to the SUB proposal. From these examples, it appears that picking this option, namely that the relevant difference between the zygote and a regular fetus that explains why only the latter is a human substance lies in the developmental

¹²⁸ See page 132 of: Beckwith, Francis J. *Defending Life: A Moral and Legal Case against Abortion Choice*. New York: Cambridge University Press, 2007.

dispositions or capacities of each, has highly implausible ethical implications. The result is that the SUB proposal fails the second necessary condition for successfully filling in the main anti-abortion argument, and therefore it ought to be rejected.

We can now see that the accidentally nonviable IVF zygote example places the SUB proposal in a seemingly inescapable dilemma. The defender of the SUB proposal must say that killing the zygote is either morally wrong or morally permissible. If the defender of the SUB proposal says that it is morally wrong, then the only plausible basis for saying this transforms the SUB proposal into the highly implausible biological humanity proposal. If the defender of the SUB proposal instead says that it is morally permissible, then either abortion is also morally permissible or the SUB proposal has the highly implausible consequence that the severely mentally retarded and other beings incapable of rational moral agency lack a right to life. Whichever way the defender of the SUB proposal addresses the accidentally nonviable IVF zygote example, the SUB proposal must fail at least one of the necessary conditions for successfully filling in the main anti-abortion argument. Therefore, the SUB proposal fails to uphold the anti-abortion position and ought to be rejected in any case.

A second example that reveals a dilemma for the SUB proposal is what I will call the robot transfer example. In this example, imagine that we develop the technology to transfer consciousness from an innocent human adult into a robot so that the person will live on, so to speak, with a robotic body. This process, for some technical reason, always results in the annihilation of the human body after the transfer of consciousness has been successfully completed. If it helps in picturing this example, then think of it as an interesting variation on Stretton's transplant example mentioned above. In Stretton's

transplant example a non-human animal that is not a person receives a brain transplant that turns it into a person. The point of Stretton's transplant example is to give a good reason for thinking that a certain being can come to possess a right to life after a time existing without a right to life while remaining the same being. This in turn gives a good reason for thinking that possessing a right to life is an accidental property rather than an essential property, which entails that the SUB proposal is incorrect.¹²⁹ In the robot transfer example an innocent human adult is given what amounts to a full body transplant, while at the same time the robotic body becomes a person. Aside from story details, the main difference between the examples lies in which beings are affected. In Stretton's transplant example the brain that is transplanted has never been used and is just lying around. As a result, the non-human animal itself becomes a person after the transplant. In other words, the non-human animal gets a new brain.¹³⁰ In the robot transfer example the consciousness that is transferred belongs to a person who is using it. As a result, the consciousness moves to the robot after the transfer. In other words, the person gets a new body.

The question that should now be asked of the defender of the SUB proposal is: is it morally wrong or morally permissible to kill¹³¹ the robot after the transfer procedure has taken place? If the defender of the SUB proposal answers that it is morally wrong to kill the robot, then it must be the case that the robot is a human substance. After all,

¹²⁹ See pages 238-239 of: Stretton, Dean. "The Argument from Intrinsic Value: A Critique." *Bioethics* 14.3 (July 2000): 228-239.

¹³⁰ See pages 238-239 of: Stretton, Dean. "The Argument from Intrinsic Value: A Critique." *Bioethics* 14.3 (July 2000): 228-239.

¹³¹ I am taking "kill" here to mean "ending existence," even though I think that it usually only applies to purely biological entities since killing something almost always refers to the ending of a life. A robot would not be, or at least need not be, a biological entity with a life even if it is a person. Hence, I will use the altered definition of "kill" for the purposes of this particular example.

according to the SUB proposal, being a human substance is what makes killing an innocent human adult morally wrong, as well as what makes killing a fetus morally wrong. It stands to reason that killing the robot would be morally wrong because it too is a human substance; in fact, there is at least some intuitive reason to think that the robot is the same human substance as the innocent human adult whose consciousness it has received.¹³² If it is wrong to kill an innocent adult and wrong to kill the robot for the same reason, namely that they are both human substances, then the truthmakers for the claims “an innocent adult is a human substance” and “the robot is a human substance” must be a common property or set of properties that the adult and the robot share.

The adult and the robot do not share any biological properties for obvious reasons. For these same sorts of reasons the adult and the robot also do not seem to share any meaningful stages or types of development, dispositions, capacities, or relevant future prospects that directly involve the composition of one’s body, such as the aging process. The adult and the robot do seem to share most other properties that are commonly thought to be morally relevant. They share mental properties, relevant future prospects that do not directly involve the composition of one’s body, meaningful stages or types of development and dispositions and capacities that directly relate to one’s mental life, rational moral agency, and the like. It stands to reason that it must be one or more of these common properties that gives us a reason for thinking that both the adult and the robot are equally human substances. A problem now arises for the SUB proposal. To see

¹³² While I am personally inclined to think that this is the correct account of what would happen in this example, I do not wish to assume this for two reasons. First, I do not want to go delving into the vast literature on body-transfer cases in philosophy of mind. Second, I do not want to risk begging the question against defenders of the SUB proposal who might contest this. As such, I leave the question of whether or not the robot is the same person as the consciousness donor open. Nothing in the argument I am presenting hinges on this point in any case.

why, note that for at least the overwhelming majority of its development, a fetus does not possess any of these common properties that the adult and the robot share. This seems to imply that a fetus is not a human substance, because it is one or more of these common properties that makes both the adult and the robot human substances, and a fetus lacks these common properties. If this is correct, then this would show that abortion is morally permissible on the SUB proposal because fetuses would lack a right to life.

Note also that it seems that the robot was not a human substance and thereby lacked a right to life prior to the transfer, since at that time it would seem to share all of its morally relevant properties with rocks and other inanimate objects. This supports the analysis that abortion is morally permissible on the SUB proposal because fetuses, like the robot before the transfer, also share all of their morally relevant properties with inanimate objects for the overwhelming majority of their development. In other words, the robot became a human substance by acquiring consciousness, and all of the related mental properties and so forth, from the transfer, and only acquired a right to life at that point. By parity of reasoning, a fetus will also become a human substance by acquiring consciousness, and thereby does not have a right to life prior to that point. As a result, if the defender of the SUB proposal answers that it is morally wrong to kill the robot, then this leads to the conclusion that abortion is morally permissible because fetuses clearly lack the right to life just like the robot did prior to the transfer, in which case the SUB proposal actually supports the pro-abortion position. Therefore, picking this option results in the SUB proposal failing the first necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected.

On the other hand, if the defender of the SUB proposal answers that it is morally permissible to kill the robot, then it must be the case that the robot is not a human substance. After all, according to the SUB proposal, being a human substance is what makes it morally wrong to kill an innocent adult. If it is morally permissible to kill the robot, then the robot cannot be a human substance. If it is morally permissible to kill the robot because it is not a human substance, but it is morally wrong to kill an innocent human adult because he or she is a human substance, then there must be some difference between the robot and the adult that explains why only the latter is a human substance. In other words, there must be a property that the adult possesses and the robot lacks that provides the truthmakers for the claims “an innocent human adult is a human substance” and “the robot is not a human substance.” But what relevant differences are there between the adult and the robot? As mentioned above, the adult and the robot share almost all properties that are commonly thought to be morally relevant: mental properties, rational moral agency, many if not most relevant future prospects, meaningful stages or types of development, dispositions, capacities, and so forth.

The only major differences between the adult and the robot are biological or based upon biology. Unlike the adult, the robot is not a living being and therefore does not have any biological properties or other properties that stem from biological properties such as bodily composition. After all, only the adult is a member of the species *Homo sapiens*, has human DNA, is made up of human cells, and so forth. But if this is the correct reason why the adult is a human substance and the robot is not, then “X is a human substance” is exactly the same thing as or just boils down to “X is biologically human.” But if being a human substance is what grants a right to life, and being a human

substance is just being biologically human, then the SUB proposal is really the aforementioned biological humanity proposal put into different words. We have already seen in the counterexamples presented above that the biological humanity proposal is surely incorrect because it has many highly implausible ethical implications. As such, both the biological humanity proposal and the SUB proposal would fail the second necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected. As a result, if the defender of the SUB proposal answers that it is morally permissible to kill the robot, then the SUB proposal fails the second necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected.

We can now see that the robot transfer example also places the SUB proposal in a seemingly inescapable dilemma. The defender of the SUB proposal must say that killing the robot is either morally wrong or morally permissible. If the defender of the SUB proposal says that it is morally wrong, then it seems that this entails that abortion is morally permissible. If the defender of the SUB proposal instead says that it is morally permissible, then the only plausible basis for saying this transforms the SUB proposal into the highly implausible biological humanity proposal. Whichever way the defender of the SUB proposal addresses the robot transfer example, the SUB proposal must fail at least one of the necessary conditions for successfully filling in the main anti-abortion argument. Therefore, the SUB proposal fails to uphold the anti-abortion position and ought to be rejected in any case.

Let us consider one last example that reveals a dilemma for the SUB proposal, which is what I will call the nanoworld example. In this example, imagine that scientists create nanobots that end up escaping from the lab, self-replicating, and infesting

everything on Earth. These nanobots were programmed to analyze every object they infest, after a random amount of time, to determine if it is a so-called medium-size object¹³³ that is not conscious. If the object does not meet this description, for example if the object is an innocent human adult or a large molecule or a continent, then the nanobots do nothing. If the object does meet this description, then the nanobots restructure the object so that it continues to function as before except that it integrates into the object a working nano-scale computer that stretches throughout the object. This working nano-scale computer creates a conscious artificial intelligence that is a rational moral agent. The particulars of the nano-scale computer, and therefore the artificial intelligence that will result, is uniquely determined for each object. This means that each object will eventually become a different and unique person, and destroying an object will destroy the rational moral agent within. The question that should now be asked of the defender of the SUB proposal is: is it morally wrong or morally permissible to eat food?

Initially this might seem like a strange question to ask, but keep in mind that in this example all foodstuffs are infested with nanobots that will turn them into persons after a length of time unless they are eaten first. This situation is comparable to that of fetuses: a fetus attached to a womb will turn into a person after a length of time unless it is aborted first. If it is morally wrong to abort a fetus on the SUB proposal, then it is

¹³³ For the practical purposes of this example, I take a medium-size object to be any contiguous and solid material entity that is not too small or too large. I take the “too small” boundary to be equivalent to something like “requires an electron microscope for direct mechanical interaction.” I take the “too large” boundary to be equivalent to something like “equal to or larger than a land mass.” Basically, medium-sized objects cover everything from bacteria to massive buildings, but not viruses or the Earth’s surface. This example does not hinge on this definition: the example will work just as well if we specify that the nanobots only care if the object is edible for human beings or something similar rather than this general size restriction.

important to see how the SUB proposal handles the relevantly similar nanoworld example. Let us now return to the question: is it morally wrong or morally permissible to eat food on the nanoworld example? If the defender of the SUB proposal answers that it is morally wrong to eat food, then it must be the case that every foodstuff is a human substance. After all, according to the SUB proposal, being a human substance is what makes killing an innocent human adult morally wrong, as well as what makes killing a fetus morally wrong. It stands to reason that eating food would be morally wrong because every foodstuff is also a human substance. If eating any food at all is morally wrong, then it appears that all human beings are morally obligated to starve to death on the nanoworld example. Every act of eating, just like every abortion, is morally equivalent to murder and therefore must be avoided if the term “morally wrong” is to mean anything and have any motivational force. But it is highly implausible at best to think that every human being could ever be morally obligated to starve to death, much less that this could be the result of what amounts to a freak accident or force of nature. It is far more plausible to think that the SUB proposal analysis is incorrect and that being a human substance is not what grants a right to life. As a result, if the defender of the SUB proposal answers that it is morally wrong to eat food, then the SUB proposal fails the second necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected.

One response here might be to claim that there is an important mitigating factor here that is not being taken into account. What if you think that no real harm is done by eating food on the nanoworld example because the waste produced by doing so is also

nanobot-infested and will eventually become a person?¹³⁴ Unfortunately, this response will not work. Remember that the nanobots give different artificial intelligences to different objects. As such, by eating food you would be destroying one human substance now and generating another, different human substance later. This seems to be just as wrong as killing a person and making a clone from their remains: there may be the same number of beings in the end, but you still performed a morally wrong action. In fact, this response seems to make certain abortions morally permissible, namely abortions to obtain stem cells and abortions to obtain material for cloning, since the results of these sorts of abortions will either save the life of a person or eventually become a person. I highly doubt that many, if any, defenders of the SUB proposal would find these types of abortions to be morally permissible exceptions because no real harm is done. Therefore, the nanoworld example retains its force should the defender of the SUB proposal answer that it is morally wrong to eat food in this case.

On the other hand, if the defender of the SUB proposal answers that it is morally permissible to eat food on the nanoworld example, then it must be the case that no foodstuff is a human substance, or at least no foodstuff that has not already become a person thanks to the nanobots. After all, according to the SUB proposal, being a human substance is what makes it morally wrong to kill an innocent adult. If it is morally permissible to eat foodstuffs, then foodstuffs cannot be human substances. If it is morally permissible to eat food because a foodstuff is not a human substance, but it is morally wrong to have an abortion because a fetus is a human substance, then there must be some

¹³⁴ I would like to thank Dr. Pat Kain for bringing this response to my attention.

difference between a foodstuff and a fetus that explains why only the latter is a human substance. In other words, there must be a property that a fetus possesses and a foodstuff lacks that provides the truthmakers for the claims “a fetus is a human substance” and “a foodstuff on the nanoworld example is not a human substance.” But what relevant differences are there between a foodstuff and a fetus?

A foodstuff on the nanoworld example and a fetus appear to be the same regarding mental properties, meaningful stages and types of development, relevant future prospects, rational moral agency, and dispositions or capacities. Remember that it was established above that, according to the SUB proposal, aborting a fetus that will miscarry in the future is morally wrong because that fetus is still a human substance. A fetus that will miscarry in the future is exactly like a foodstuff that will be eaten regarding mental properties, meaningful stages and types of development, relevant future prospects, rational moral agency, and dispositions and capacities. After all, neither one will be able to actually achieve or possess any of these things. But a fetus that will miscarry in the future is a human substance that it is morally wrong to kill, while a foodstuff is not a human substance and is morally permissible to eat. This means that mental properties, meaningful stages and types of development, relevant future prospects, rational moral agency, and dispositions and capacities cannot be the relevant differences that make a foodstuff on the nanoworld example different than a fetus.

There appear to be only two options remaining. The relevant difference between a foodstuff on the nanoworld example and a fetus that explains why only the latter is a human substance either lies in the biological humanity of the fetus, or there is in fact no relevant difference to be found. Neither of these options will help the SUB proposal. If

the reason why only a fetus and not a foodstuff is a human substance is that only the former is biologically human, then the SUB proposal is really the aforementioned biological humanity proposal put into different words. We have already seen in the counterexamples presented above that the biological humanity proposal is surely incorrect because it has many highly implausible ethical implications. As a result, the SUB proposal fails the second necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected. On the other hand, if there is no relevant difference between a foodstuff on the nanoworld example and a fetus, and it is morally permissible to eat food because no foodstuff is a human substance, then it must follow that it is also morally permissible to kill a fetus because it is not a human substance. This option obviously leads to the conclusion that abortion is morally permissible because fetuses clearly lack the right to life, in which case the SUB proposal actually supports the pro-abortion position. Therefore, picking this option results in the SUB proposal failing the first necessary condition for successfully filling in the main anti-abortion argument and ought to be rejected.

We can now see that the nanoworld example, just like the accidentally nonviable IVF zygote example and the robot transfer example, places the SUB proposal in a seemingly inescapable dilemma. The defender of the SUB proposal must say that eating food on the nanoworld example is either morally wrong or morally permissible. If the defender of the SUB proposal says that it is morally wrong, then the SUB proposal is committed to the highly implausible claim that it is morally obligatory for every human being to starve to death on the nanoworld example. If the defender of the SUB proposal instead says that it is morally permissible, then either abortion is also morally permissible

or the SUB proposal transforms into the highly implausible biological humanity proposal. Whichever way the defender of the SUB proposal addresses the nanoworld example, the SUB proposal must fail at least one of the necessary conditions for successfully filling in the main anti-abortion argument. Therefore, the SUB proposal fails to uphold the anti-abortion position and ought to be rejected in any case.

As a result of the above examples and the dilemmas that result from them, it appears that the SUB proposal must fail at least one of the two necessary conditions for successfully filling in the main anti-abortion argument that were given above. If this is correct, then the SUB proposal cannot successfully account for why abortion is morally wrong. There is one last response to address. One might claim that the above examples are difficult cases where our moral concepts do not easily apply, and as such they are not a real problem because it is unclear if they are truly relevant.¹³⁵ This last response is incorrect for at least one very important reason: the pro-abortion position can very easily, clearly, and consistently analyze these cases without problems. Consider Boonin's organized cortical brain activity proposal, or Steinbock's interest proposal.¹³⁶ On these proposals that support the pro-abortion position it is clearly morally permissible to kill the accidentally nonviable IVF zygote and eat food infested with nanobots, while it is clearly morally wrong to kill the robot after the consciousness transfer. This is because out of these examples only the robot has either interests in the case of Steinbock's proposal or an ideal dispositional desire to continue existing in the case of Boonin's

¹³⁵ I would like to thank Dr. Mark Bernstein for bringing this response to my attention.

¹³⁶ See the discussion of these proposals above. See pages 79-81 and 115-129 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003. See pages 472-474 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482.

proposal. This shows that some moral concepts can and do quite easily apply in the above examples. The fact that the SUB proposal, in contrast, is unable to easily, clearly, and consistently address these cases is evidence against the SUB proposal being correct.

3.6: Conclusion

As a result of all of the above, it appears that the SUB proposal faces a series of serious dilemmas. No matter which horn of the dilemma is chosen for any of the different dilemmas that were raised, the SUB proposal does not appear to work. This is because, for every horn of every dilemma, the SUB proposal either has highly implausible ethical implications outside of the abortion debate or does not show that abortion is morally wrong. Either way, the SUB proposal cannot be used to successfully fill in the main anti-abortion argument and therefore does not support the anti-abortion position. However, there is another important anti-abortion proposal that is frequently used to try to successfully fill in the main anti-abortion argument. This is the future-like-ours proposal, and we must now move on to see if it provides a better defense of the anti-abortion position than the SUB proposal.

CHAPTER 4: GO WITH THE FLO: FUTURE-LIKE-OURS ANTI-ABORTION ARGUMENTS AND THE NATURE OF TIME

I will argue in the fourth chapter that the FLO proposal faces a dilemma: either it is actually the SUB proposal in different words, or it does not show that abortion is morally wrong. If the first horn of the dilemma is chosen, then the problems with the SUB proposal that were raised in the third chapter and gave us good reason to reject the SUB proposal are equally serious problems with the FLO proposal as well, and also give us good reason to reject the FLO proposal. If the second horn of the dilemma is chosen, then the FLO proposal does not help the anti-abortion position because it cannot be used to successfully fill in the main anti-abortion argument. This dilemma will be shown by looking at something that has not really been analyzed before, namely how the nature or ontology of time makes a difference to what a FLO can be, and it is to this that we now turn.

4.1: The FLO Proposal

The FLO proposal is one of the two most important ways of filling in the main anti-abortion argument in the philosophical literature, and it is primarily defended by Don Marquis. Marquis begins his defense of the FLO proposal with an assumption and a caveat. The assumption is that the moral permissibility or wrongness of abortion is based entirely upon the morally relevant properties of the fetus. If fetuses have properties that

make their lives the sort of lives that it would be wrong to end, then abortion is morally wrong. If the lives of fetuses are not the sort of lives that it would be wrong to end, then abortion is morally permissible. No other features matter in determining the moral permissibility or wrongness of abortion.¹³⁷ In effect, the assumption is that the only relevant arguments for the moral permissibility of abortion are those which argue that the properties of fetuses do not include properties that make the lives of fetuses the sort of lives that it would be wrong to end. Examples of arguments that are being assumed to be incorrect in this way are arguments from the inviolability of the right to bodily integrity of women and Judith Jarvis Thomson's argument based upon her famous violinist example.¹³⁸ The caveat is that Marquis's defense of the FLO proposal will be general, and as such will avoid many hard cases. The FLO proposal attempts to reach the conclusion that abortion is generally or *prima facie* morally wrong¹³⁹, not that abortion is always actually morally wrong. As such, there may be cases where abortion is morally permissible even if the FLO proposal works and these must be examined separately. Examples of these sorts of hard cases that are avoided by Marquis are abortion prior to implantation, abortion when the pregnancy threatens the life of the mother, and abortion when the pregnancy is due to rape.¹⁴⁰

¹³⁷ See page 183 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹³⁸ Thomson, Judith Jarvis. "A Defense of Abortion." *Philosophy and Public Affairs* 1.1 (Autumn 1971): 47-66.

¹³⁹ Remember that I will usually drop the "generally or *prima facie*" that qualifies the terms "morally wrong," "morally permissible," and the various shorthand versions and derivatives thereof. This is for conciseness only. Consider all of them to have an implied "generally or *prima facie*" in front.

¹⁴⁰ See page 183 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

Marquis then moves on to criticize the usual arguments given in the abortion debate with the intent of showing that the debate cannot be resolved without a new approach, and that the FLO proposal avoids the problems of the usual arguments and can therefore resolve the abortion debate.¹⁴¹ The usual arguments of both sides of the abortion debate begin with claims about fetuses that appear to be obviously true. Defenders of the anti-abortion position claim that fetuses are human beings from conception onward or something similar, while defenders of the pro-abortion position claim that fetuses are not rational agents and therefore cannot be persons or something similar. It is then argued by both sides that the moral wrongness or permissibility of abortion, respectively, obviously directly follow from the initial claims about fetuses that appear to be obviously true. Marquis points out that both sets of claims about fetuses appear to be true as well as point towards the respective conclusions about abortion. This leads to a stalemate between the two sides of the abortion debate.¹⁴²

Both sides of the abortion debate try to break this stalemate by clarifying and expanding their arguments. This is done by providing a seemingly obviously true ethical principle that, when combined with the seemingly obviously true initial claims about fetuses, appears to lead to the desired conclusion about abortion. Defenders of the anti-abortion position will cite principles such as “killing a human being is morally wrong” and argue that these principles clearly lead to the conclusion that abortion is morally wrong when combined with the earlier claim that fetuses are human beings from conception onward. Defenders of the pro-abortion position will cite principles such as

¹⁴¹ See pages 183-184 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁴² See page 184 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

“killing a being that is not a person for a good reason is morally permissible” and argue that these principles clearly lead to the conclusion that abortion is morally permissible when combined with the earlier claim that fetuses are not persons. Marquis again points out that both sets of ethical principles appear to be true and lead to the respective conclusions about abortion, which again leads to a stalemate between the two sides of the abortion debate.¹⁴³

The two sides of the abortion debate usually attempt to break this further stalemate by attacking the plausibility of the ethical principles used by the opposing side.¹⁴⁴ Defenders of the pro-abortion position will attack the ethical principles of the anti-abortion position as being too broad and therefore leading to clearly incorrect moral judgments. For example, the principle “killing a human being is morally wrong” appears to entail that it is wrong to cure people of cancer since cancer cells are human beings due to being a human biological organism. The response that human being is not a strictly biological category will not help. It is not clear that a fetus is a human being in any sense other than being biologically human, since fetuses are not persons.¹⁴⁵ Defenders of the anti-abortion position will attack the ethical principles of the pro-abortion position as being too narrow and therefore leading to clearly incorrect moral judgments. For example, the principle “killing a being that is not a person for a good reason is morally permissible” appears to entail that killing infants or the severely mentally retarded is morally permissible since these beings lack the mental properties necessary for

¹⁴³ See page 184 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁴⁴ See pages 184-185 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁴⁵ See page 185 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

personhood. The response that these beings are close enough, or are at least in a different category than fetuses, will not help because it appears to be both arbitrary and begging the question against the anti-abortion position.¹⁴⁶ In effect, both sides of the abortion debate, as is usually argued, appear to be caught in inescapable dilemmas. The anti-abortion position must decide if “human being” is a biological or moral category. If it is biological, then it leads to incorrect moral judgments. If it is moral, then it is hard to see how it can reach the conclusion that abortion is morally wrong without begging the question. The pro-abortion position must decide if “person” is a psychological or moral category. If it is psychological, then it leads to incorrect moral judgments. If it is moral, then it is hard to see how it can reach the conclusion that abortion is morally permissible without begging the question. This problem with both sides of the abortion debate, combined with the stalemate between the two sides and the emotions which run rampant in the abortion debate, seems to show that the abortion debate as it is usually argued is utterly irresolvable. This gives us a good reason to try to find a different way to argue and resolve the abortion debate that avoids these problems.¹⁴⁷

Marquis suggests that we can avoid these problems with the abortion debate as it is usually argued by going back to basics. In particular, Marquis suggests that what is needed is a new analysis of what essentially makes killing morally wrong. By figuring out what makes killing morally wrong, we can then clearly check and see if these

¹⁴⁶ See pages 185-186 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁴⁷ See pages 186-188 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

conditions are met in the case of abortion to resolve the abortion debate.¹⁴⁸ As Marquis states, “After all, if we merely believe, but do not understand, why killing adult human beings such as ourselves is wrong, how could we conceivably show that abortion is either immoral or permissible?”¹⁴⁹ Marquis suggests a very simple starting point: it is obviously wrong to kill us, where “us” means “innocent adult human beings.” If we can figure out why it is wrong to kill us, then we should be able to figure out the general conditions under which it is wrong to kill a being. We can then see if abortion meets those conditions in order to determine if abortion is morally wrong or morally permissible.¹⁵⁰ So, why is it wrong to kill us? One possibility is that killing us makes the killer a worse person by brutalizing him or her. Marquis argues that this possibility cannot be correct because it has no real explanatory power. Brutalization is a process of coming to accept as morally permissible acts that are clearly morally wrong, which means that brutalization does nothing to explain why the act of killing us is clearly morally wrong in the first place. Simply saying that killing us brutalizes the killer because killing is morally wrong is circular reasoning. Another possibility is that killing us harms our loved ones by depriving them of our continued presence in their lives. This possibility cannot be correct because there are clear counterexamples where killing us would be wrong even though our loved ones would not be harmed. Hermits, those whose loved ones are already all gone, the independent, the friendless, and those whose friends

¹⁴⁸ See pages 188-189 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁴⁹ See page 189 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁵⁰ See page 189 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

can quickly get over the death of a friend and make new friends are innocent adult human beings that it is wrong to kill. Since in each of these cases the killing would not harm the loved ones of the one who is killed, this possibility must be incorrect.¹⁵¹

Marquis then argues that the failure of these first two possibilities shows an important point: the wrongness of killing must not be due to the effect of the killing either the killer or those related to the victim in some way, but rather due to the effect of the killing on the victim himself or herself.¹⁵² The most obvious effect of the killing on the victim is the loss of his or her life, but this is not the obvious reason why killing us is wrong that it first appears to be. Simply ceasing to be a living biological organism in and of itself does not appear to be that important.¹⁵³ The related effect of the deprivation and loss of a great many things does appear to be very important.¹⁵⁴ As Marquis states, “The loss of one’s life deprives one of all the experiences, activities, projects, and enjoyments that would otherwise have constituted one’s future. Therefore, killing someone is wrong, primarily because the killing inflicts (one of) the greatest possible losses on the victim.”¹⁵⁵ In other words, killing an innocent adult is morally wrong because it deprives that person of his or her FLO: everything that he or she values, everything that he or she

¹⁵¹ See page 189 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁵² See page 189 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁵³ Although Marquis himself does not use this example, you might think that becoming a traditional Dracula-style vampire would make one cease being a living biological organism and start being an undead creature. Since one would continue existing without much impediment, setting aside the usual problems associated with vampirism, the mere fact that one is no longer a living biological organism does not seem relevant in this case. The same can be said for similar examples, such as having one’s consciousness transferred into a completely robotic body.

¹⁵⁴ See page 189 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁵⁵ See page 189 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

has that is valuable, and everything that he or she would value or would possess that is of value. Since this is a tremendously large deprivation for almost every person, it follows that killing an innocent adult is almost always wrong and is certainly *prima facie* wrong in all cases. In addition, the fact that the deprivation inflicted by killing an innocent adult can be generalized for any person, unlike the first two possibilities, gives us even more reason to think that this analysis of the wrongness of killing is correct.¹⁵⁶

Marquis provides a detailed defense of this FLO proposal, or in other words that what makes killing an innocent adult wrong is that it robs the person of his or her valuable future. He begins by establishing criteria for an analysis of the wrongness of killing that is the most likely to be correct. As Marquis says, “The point of the analysis is to establish which natural property ultimately explains the wrongness of the killing, given that it is wrong. A natural property will ultimately explain the wrongness of killing, only if (1) the explanation fits with our intuitions about the matter and (2) there is no other natural property that provides the basis for a better explanation of the wrongness of killing.”¹⁵⁷ Marquis then starts on a list of reasons for thinking that the FLO proposal meets both of these criteria. First, the FLO proposal meets our intuitions about the severity and seriousness of the crime of murder. All societies and peoples believe that murder is one of the worst crimes that a person can commit, and punish it as such. The FLO proposal fits with this widespread ethical intuition, and in fact explains it as a

¹⁵⁶ See pages 189-190 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁵⁷ See page 190 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

natural reaction to the tremendously large deprivation inflicted by killing.¹⁵⁸ Second, the FLO proposal meets our intuitions about terminal diseases. People who have terminal diseases and know that their deaths are imminent are in a terrible state and believe as much: no one wants to be told by a doctor that the tests are positive for terminal cancer, for example. The FLO proposal fits with this widespread intuition, and explains it as a natural reaction to the realization that the terminal disease will result in the loss of one's valuable future.¹⁵⁹ In addition, Marquis does not think that any other proposal about the wrongness of killing can both fit with these two widespread intuitions and provide an explanation of why we have these intuitions that is anywhere near as plausible and direct as that of the FLO proposal.¹⁶⁰

The remainder of Marquis's list of reasons for thinking that the FLO proposal meets both of the criteria for a correct analysis of the wrongness of killing deals with the correct ethical implications of the FLO proposal.¹⁶¹ First, it rejects biological humanity as a morally relevant property. Biological humanity is the property of membership in the species *Homo sapiens* due to the possession of the biological properties necessary for such a membership. Some lay arguments for the anti-abortion position claim that abortion is morally wrong because killing a human being is wrong, and fetuses are human beings. Biological humanity is a highly implausible morally relevant property at best. Marquis uses intelligent alien species as a counterexample: it would clearly be morally

¹⁵⁸ See page 190 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁵⁹ See page 190 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁶⁰ See page 190 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁶¹ See page 190 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

wrong to kill an innocent adult of such a species, but such a species would clearly not be biologically human. This means that if we take biological humanity to be the morally relevant property that makes it wrong to kill innocent human adults, then at best we cannot explain why it is wrong to kill the aliens and at worst it gives us the wrong answer that it is morally permissible to kill the aliens because they lack biological humanity. The FLO proposal rejects biological humanity as morally relevant because human beings are not the only individuals that can possibly have a future of value.¹⁶²

The second reason for thinking that the FLO proposal meets both of the criteria for a correct analysis of the wrongness of killing is related to the first: the FLO proposal leaves open the possibility that there are non-human animals here on Earth that it would be morally wrong to kill. This is because, as with the first reason above, human beings are not the only individuals that can possibly have a future of value. This is not to say that the FLO proposal takes a specific stand on issues of animal rights: Marquis says that he does not know whether there are any animals that have FLOs, and figuring this out is both beyond his expertise and unnecessary for his anti-abortion argument. Marquis does know that if the mental lives and other aspects of having a future of value of a species of non-human animal are sufficiently similar to our own, then it follows from the FLO proposal that it is as morally wrong to kill them as it is to kill us. Leaving this possibility

¹⁶² See pages 190-191 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

open as well as providing a framework for deciding on issues of animal rights is an upside to the FLO proposal, and makes it less likely to be wrong than proposals that take a definite stand such as the biological humanity proposal.¹⁶³

Third, the FLO proposal does not entail that euthanasia is morally wrong. This is because some people with terminal diseases have a future that consists entirely of pain and suffering that ends in an excruciating death. A future like this is not a future of value in any meaningful sense of the term “value.” As a result, killing a person with a terminal disease that faces this kind of future is not depriving them of a FLO or anything else valuable. If anything, complying with the person’s request to be killed in euthanasia cases benefits the person by ending the person’s suffering. As such, euthanasia is morally permissible despite the usual reasons why killing a person is wrong. Marquis points out that there may be other reasons for thinking that euthanasia is morally wrong, but these reasons will have nothing to do with inflicting a tremendously large deprivation upon the person who is killed because no such deprivation exists in euthanasia cases. Marquis considers this ethical implication of the FLO proposal to not only be correct, but also give a good reason for thinking that other anti-abortion proposals are wrong. This is because other anti-abortion proposals, such as the biological humanity proposal or the proposal that violating the sanctity of human life is what makes killing innocent human adults wrong, almost always have the implication that euthanasia is always morally

¹⁶³ See page 191 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

wrong no matter the circumstances. Marquis thinks that this implication is highly implausible because it ignores the evil of suffering, and as a result argues that the FLO proposal is the best anti-abortion proposal.¹⁶⁴

Fourth, the FLO proposal entails that infanticide is seriously morally wrong. The reason for this is straightforward: infants and children have FLOs, so killing them is just as wrong as killing us. The wrongness of infanticide is widely believed and is defended by the overwhelming majority of people and positions on both sides of the abortion debate. Why is this ethical implication of the FLO proposal an important point? Marquis argues that this is important because the personhood-based proposals that are usually offered by the pro-abortion position are not able to establish the wrongness of infanticide as well as the FLO proposal.¹⁶⁵ Marquis gives the examples of Feinberg, Tooley, Warren, and Engelhardt as people who have defended the pro-abortion position with personhood-based proposals that have trouble with making the claim that infanticide is morally wrong.¹⁶⁶ According to Marquis, since infants and young children have not developed the necessary characteristics of personhood, they are not persons. As a result, all proposals that claim that abortion is morally permissible because it is only morally wrong to kill persons and fetuses are not persons can only claim that infanticide is

¹⁶⁴ See page 191 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁶⁵ See pages 191-192 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁶⁶ See footnote 7 on page 192 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

morally wrong with unconvincing ad hoc reasoning. Since the FLO proposal does not have these problems, Marquis thinks that the FLO proposal is more plausible than any pro-abortion proposal.¹⁶⁷

Marquis argues that the above list of the ethical implications of the FLO proposal shows that the FLO proposal has the advantages of the usual proposals on both sides of the abortion debate while avoiding all of the counter-intuitive features and generally according with our intuitions about the wrongness of killing. This seems to indicate that the FLO proposal meets both of the criteria for a correct analysis of the wrongness of killing and thus is the correct account of why it is wrong to kill an innocent adult. If this is the case, then what follows? Marquis argues that if the FLO proposal is correct, then it follows that abortion is almost always morally wrong. A fetus has a FLO, because even though it does not value anything or possess anything of value at the moment it will value things and possess things of value in the future. In fact, these are the exact same sorts of valuations and things of value that we have now because a fetus will become an innocent adult. Since it is wrong to kill us because we have FLOs, it follows that it is wrong to kill a fetus because a fetus has a FLO. To put it a slightly different way, it is wrong to kill us because it deprives us of our valuable futures.¹⁶⁸ We had those same valuable futures when we were children and infants. Marquis argues that since we were fetuses before we were infants, it follows that we had those same valuable futures then as well. If it is wrong to kill us now, and it would have been wrong to kill us as children or infants, then

¹⁶⁷ See page 192 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁶⁸ The FLO proposal, at least as defended by Marquis, is a deprivationist account of the badness of death and the wrongness of killing. I would like to thank Dr. Mark Bernstein for pointing out the need for this clarification.

it would also have been wrong to kill us as fetuses. This can be generalized to everyone, so it follows that it is wrong to kill any fetuses and therefore abortion is morally wrong.¹⁶⁹

Marquis then defends the FLO proposal against a series of objections. The first objection is that the FLO proposal relies upon a fallacious use of potentiality. Some arguments for the anti-abortion position claim that fetuses are potential persons, and if it is wrong to kill a person then it is wrong to kill a potential person. This is fallacious because there is no reason to think that if something, P, has property Y that a potential P also has Y. For example, a ceramic pitcher is hard. It does not follow that a lump of clay on a potter's wheel, which is a potential ceramic pitcher, is also hard. Marquis argues that the FLO proposal does not rely upon this fallacious use of potentiality because it does not rely upon potentiality at all. Having a FLO is an actual property, and it is possessed by both innocent adults and fetuses.¹⁷⁰

Marquis defends the FLO proposal further by comparing it with arguments for why it is morally wrong to torture non-human animals. The main argument for why it is morally wrong to torture non-human animals begins with the obvious fact that it is morally wrong inflict needless pain upon innocent human adults. This fact seems to be true because needless pain results in intense suffering, which is an undesirable state of affairs to say the least. This means that any action that results in intense suffering is morally wrong. Since torturing non-human animals results in intense suffering in exactly

¹⁶⁹ See page 192 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁷⁰ See page 192 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202. There will be a further discussion of potentiality, the FLO proposal, and what Marquis has to say about them below.

the same way that torturing an innocent human adult does, it follows that torturing non-human animals is morally wrong.¹⁷¹ In fact, the structure of this argument and the argument for the FLO proposal are very similar if not identical. Both arguments start with obvious facts that certain actions are morally wrong to do to innocent human adults. The arguments then try to derive a general principle that explains why these actions are morally wrong. If the general principle applies to beings other than innocent human adults, then the actions are morally wrong to do to these other beings as well. Note that there is no point during either argument where the concept of personhood is used.¹⁷²

As Marquis points out, simply comparing the argument for the FLO proposal with the main argument for why it is morally wrong to torture non-human animals does nothing to help the FLO proposal. The comparison is only helpful if we know that the main argument for why it is morally wrong to torture non-human animals is a good argument, because then we know that this main argument has a good structure and therefore the argument for the FLO proposal also has a good structure. Marquis argues that the main argument for why it is morally wrong to torture non-human animals is a good argument. Aside from this main argument being initially plausible, Marquis thinks that it is a good argument because there do not appear to be any other good arguments for the obviously true conclusion that it is morally wrong to torture non-human animals. The only other major argument offered in the literature is Kant's argument that it is morally wrong to torture non-human animals because doing so will lead the animal torturer to become a harsher and worse person, which in turn will lead to the animal torturer to

¹⁷¹ See pages 192-193 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁷² See page 193 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

ignore his or her ethical duties to persons. In other words, even though persons are the only beings to which Kantian ethical duties are owed and thus there are no direct Kantian ethical duties towards animals, Kant still thinks that it is morally wrong to torture non-human animals because there is an indirect Kantian ethical duty towards animals not to torture them on the grounds that doing so will be likely to hurt persons later on. Marquis argues that Kant's argument is, in effect, self-defeating and therefore cannot work. This is because, under Kantian ethics, there is no plausible causal mechanism whereby torturing animals will lead to a disregard of Kantian ethical duties towards persons. Someone who accepts the main argument for why it is morally wrong to torture non-human animals that Marquis defends has an easy explanation for why hurting animals will lead the torturer to disregard ethical duties towards persons: the torturer does not care about the fact that the intense suffering of others is bad, and is therefore not likely to care when that intense suffering is inflicted upon an innocent human adult. Under Kantian ethics, on the other hand, all ethical duties are only owed to persons and animals are not persons. As a result there is no reason to think that an animal torturer could not uphold all of his or her ethical duties to persons while continuing to torture animals *precisely because* he or she recognizes the ethical differences between what is owed to animals and to persons. This means that the main argument for why it is morally wrong to torture non-human animals that Marquis defends is the only viable argument for an obviously true conclusion, which means that this argument almost certainly works. Since this argument works and the argument for the FLO proposal has the same structure, it follows that the argument for the FLO proposal has a good structure.¹⁷³

¹⁷³ See pages 193-194 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4

Now that he has shown that the FLO proposal has theoretical advantages, avoids many objections, and the argument for the FLO proposal has a good structure, Marquis takes a moment to review and expand upon what exactly follows from accepting that the FLO proposal is true. Marquis still argues, as he did above, that if the FLO proposal is correct, then it follows that abortion is almost always morally wrong. He notes that it is possible for there to be exceptions where abortion is morally permissible, and notes two of these possible exceptions explicitly: when the life of the mother is threatened by continuing the pregnancy, and abortion during the first two weeks of pregnancy when segmentation has not yet occurred and thus the possibility of twinning and recombining shows that there is no definite individual with a valuable future that can be taken away by abortion. Nonetheless, even if these exceptions exist they will be exceedingly rare, and since abortion is otherwise morally equivalent to murder if the FLO proposal is correct it follows that justifying abortion should be just as difficult as justifying killing an innocent adult. In addition, the FLO proposal only provides sufficient, rather than necessary, conditions for the wrongness of killing. This means that it may be wrong to kill a being that lacks a FLO for a different reason, and there may be reasons why killing a being with a FLO is wrong aside from the fact that the being was robbed of its FLO.¹⁷⁴

Marquis moves on to compare the FLO proposal with various pro-abortion proposals. According to Marquis, this is because if there are other proposals that are at least as plausible as the FLO proposal but have pro-abortion implications, then there is no good reason to accept the anti-abortion implications of the FLO proposal. Marquis

(April 1989): 183-202.

¹⁷⁴ See pages 194-195 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

begins by examining two pro-abortion proposals, namely the desire proposal and the discontinuation proposal. The desire proposal says that what makes killing an innocent adult morally wrong is that it prevents the fulfillment of the desire to continue living, which is the most basic and important desire in that failing to either have this desire or have this desire fulfilled will prevent any other desires from being fulfilled. Since fetuses are incapable of having any desires at all, it follows that abortion is morally permissible if the desire proposal is true. The discontinuation proposal says that what makes killing an innocent adult morally wrong is that it ends his or her valuable and desired experience of continuing to exist. Since fetuses do not value, desire, or experience anything, it follows that abortion is morally permissible if the discontinuation proposal is true.¹⁷⁵

Marquis argues that the desire proposal fails as an account of why it is wrong to kill an innocent adult, and therefore is inferior to the FLO proposal and will not help to avoid its anti-abortion implications. Marquis begins by noting that, unlike the FLO proposal, the desire proposal must provide a necessary condition for the wrongness of killing in order to establish that abortion is morally permissible. After all, if the desire proposal only provides a sufficient condition for the wrongness of killing, then it does not follow from fetuses lacking desires that abortion is morally permissible, but rather only that abortion is not morally wrong for this particular reason.¹⁷⁶ As it turns out, the desire proposal appears to be false if taken as a necessary condition for the wrongness of killing. The problem is that there are many examples where killing an innocent adult is morally wrong, yet the person who is killed either lacks the desire to continue living or has the

¹⁷⁵ See page 195 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁷⁶ See page 195 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

desire to die instead of the desire to continue living. Marquis gives the unconscious and the suicidal as two primary examples: the former have no desires and therefore lack the desire to continue living, while the latter have a desire to die rather than continue living. In both cases it is obvious that killing the person would be morally wrong. The FLO proposal has no problem explaining this fact, since the unconscious and the suicidal both have FLOs regardless of the state of their desires. The desire proposal, on the other hand, cannot account for this fact and must actually conclude that killing the unconscious and the suicidal is morally permissible if the desire proposal is taken to be a necessary condition for the wrongness of killing. This makes the FLO proposal the more plausible of the two, and gives us a good reason to reject the desire proposal as a necessary condition for the wrongness of killing.¹⁷⁷

Marquis argues that there are further problems with the desire proposal as well. If taken as a necessary condition for the wrongness of killing, the desire proposal appears to imply that what is really wrong about killing is not anything taken away from the victim but rather the fact that you failed to convince the victim to no longer desire his or her life beforehand. This seems to be completely wrong because, as Marquis has also argued above, what makes killing wrong must be an effect upon the victim. If taken as only a sufficient condition for the wrongness of killing, the desire proposal cannot support the pro-abortion position. One reason for this is that the desire proposal as a sufficient condition for the wrongness of killing is completely compatible with the FLO proposal as another sufficient condition. Since only the FLO proposal applies to abortion cases, it

¹⁷⁷ See pages 195-196 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

still follows that abortion is morally wrong even if the desire proposal is true. Another reason is that fetuses will have the desire to live at a future point, which means that any consideration of future desires in the desire proposal will result in the desire proposal supporting the anti-abortion position. All of the above arguments suggest that the desire proposal is vastly inferior to the FLO proposal, and therefore the desire proposal should be rejected in favor of the FLO proposal and its anti-abortion implications.¹⁷⁸

Marquis then turns to the discontinuation proposal. Remember that the discontinuation proposal says that what makes killing an innocent adult morally wrong is that it ends his or her valuable and desired experiences of continuing to exist or that imply a desire to continue to exist. Marquis thinks that the discontinuation proposal is much more plausible than the desire proposal. In fact, at least initially, it appears to be at least as plausible as the FLO proposal: both proposals are intuitively plausible accounts of the wrongness of killing, identify a property of the victim that makes killing the victim morally wrong, are defended by the same sorts of arguments, have the same theoretical advantages, avoid the same objections, and so forth for all of the arguments and reasons presented above by Marquis. This is a problem for the FLO proposal, because the discontinuation proposal supports the pro-abortion position since fetuses do not have any experiences that can be discontinued by abortion.¹⁷⁹ Marquis argues that there is at least one way in which the discontinuation proposal is less plausible than the FLO proposal, and that is its ability to explain why euthanasia is morally permissible. The FLO proposal claims that it is a being's valuable future that makes killing the being morally

¹⁷⁸ See page 196 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁷⁹ See page 196-197 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

wrong. Since beings with terminal illnesses lack valuable futures, it follows that euthanasia is morally permissible. The discontinuation proposal, on the other hand, claims what makes killing a being morally wrong is that the being continues to have valuable and desired experiences that entail a desire to continue to exist. While this can explain why euthanasia of beings with terminal illnesses that are also currently in excruciating pain is morally permissible, it cannot explain the moral permissibility of euthanasia for beings with terminal illnesses that will be in excruciating pain shortly but are not currently in excruciating pain. This is because they currently continue to have valuable experiences, which seems to indicate that killing them is morally wrong until they are in excruciating pain. Likewise, Marquis argues that the discontinuation proposal cannot explain why it is morally wrong to kill a being that is currently in excruciating pain but will recover and have valuable experiences afterwards. This is because the being does not currently continue to have valuable experiences even though the being will have valuable experiences later, which seems to indicate that killing them is morally permissible in exactly the same way as euthanasia for those with terminal illnesses who are in excruciating pain. The FLO proposal can explain this: a being currently in excruciating pain that will recover has a valuable future, so killing the being is morally wrong. As a result of this, the FLO proposal is more plausible than the discontinuation proposal, and therefore the discontinuation proposal should be rejected in favor of the FLO proposal and its anti-abortion implications.¹⁸⁰

¹⁸⁰ See page 197 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

Marquis switches from addressing rival proposals with pro-abortion implications to addressing arguments which claim that the FLO proposal itself actually has pro-abortion implications because it is limited in scope.¹⁸¹ One argument of this sort is the argument that something having value necessarily requires a being that values the thing in question. If this argument is accepted, then the FLO proposal remains unchanged for innocent adults because they are beings that value their valuable futures. The FLO proposal would no longer have anti-abortion implications because fetuses cannot value anything and therefore cannot value their valuable futures. This means that fetuses do not have FLOs, and it is therefore morally permissible to kill them. Marquis claims that this argument fails because there is an ambiguity in the term “value,” which can either mean “appears to be valuable or is valued by someone” or “has actual worth.” The argument trivially works under the first definition of “value” because it is true by definition that something can be valued by someone only if it is valued by someone, but this does not lead to any meaningful conclusions about abortion. The argument clearly does not work under the second definition of “value,” and therefore does not make a difference to the FLO proposal. This is because a being’s valuable future can have actual worth regardless of the valuations of any beings whatsoever. The valuable future of a depressed or suicidal person, for example, may not be valued at present by the person in question, but it is still morally wrong to kill the person. The FLO proposal explains why: the person’s valuable future contains value even though the person does not realize it.¹⁸²

This same sort of problem applies to a similar argument against the FLO proposal,

¹⁸¹ See pages 197-198 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁸² See page 198 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

namely Michael Tooley's argument that a FLO only has value to a being that is capable of desiring continued existence. This argument, if successful, would exclude fetuses from having FLOs that make killing wrong on the ground that fetuses are incapable of any desires. It is clear that a being's valuable future can have actual worth regardless of the desires of any beings whatsoever. Again, a suicidal person may desire to die, but his or her valuable future still contains value and it is still morally wrong to kill him or her. Therefore, Tooley's argument does not work.¹⁸³

Another argument that the FLO proposal itself actually has pro-abortion implications because it is limited in scope is Paul Bassen's argument that a being can be wronged if and only if the being is sentient, or in other words able to experience pleasure and pain. If this is correct, then the loss of a FLO is only a deprivation, and therefore only morally wrong, for sentient beings. While fetuses do have FLOs, fetuses are not sentient beings and therefore it is morally permissible to deprive them of FLOs. Bassen defends his argument by comparing fetuses with inanimate objects, plants, and the permanently comatose. It is morally permissible to destroy or kill inanimate objects, plants, and the permanently comatose, and it is argued that this is because none of these beings are sentient and therefore cannot be wronged. It then follows that because fetuses also lack sentience, they also cannot be wronged and it is therefore morally permissible to kill them.¹⁸⁴ Marquis responds that Bassen's argument is subject to several difficulties. One problem is that the moral permissibility of destroying or killing inanimate objects, plants, and the permanently comatose can also be secured by the FLO proposal as

¹⁸³ See pages 198-199 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁸⁴ See page 199 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

defended by Marquis since none of these beings have FLOs, but fetuses do have FLOs.

This makes Bassen's argument appear to be begging the question against Marquis, since Bassen's defense of his argument requires assuming that Marquis is incorrect.¹⁸⁵

Marquis argues that another problem is that Bassen's argument appears to be confusing the ability of a being to be wronged with our ability to empathize with a being. It does not follow from the fact that we cannot imagine the experience of loss inflicted by a deprivation that no deprivation or wrongdoing took place. Another problem is that it appears to be possible to wrong the deceased, and dead people obviously lack sentience. For example, destroying the life's work of a writer after his or her death appears to wrong the writer by depriving him or her of recognition for creating a work with literary value at a bare minimum. If this is correct, then sentience is not a necessary condition for being wronged.¹⁸⁶ A final problem is that there appear to be other cases where a being without sentience can be wronged. Marquis uses the example of the temporarily comatose: it appears to be morally wrong to kill them while they are recovering, even though during that time they are unconscious and therefore cannot feel pain or pleasure. According to Marquis, these problems appear to be enough to reject Bassen's argument. Because none of the arguments that the FLO proposal itself actually has pro-abortion implications because it is limited in scope work, it follows that Marquis's version of the FLO proposal that has anti-abortion implications is correct.¹⁸⁷

¹⁸⁵ See pages 199-200 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁸⁶ See page 200 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁸⁷ See page 201 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

The final objection to the FLO proposal that Marquis addresses is the contraception objection. Some might claim that the FLO proposal must be incorrect because it implies not only that abortion is morally wrong, but also that contraception is morally wrong. The FLO proposal implies that contraception is morally wrong because it denies a FLO to a being and therefore deprives that being of its FLO. After all, a fetus would have existed and would have a FLO should the contraception not have been used. If abortion is morally wrong because it deprives a fetus of a FLO, then it should also follow that contraception is morally wrong for the same reason.¹⁸⁸ Marquis thinks that contraception is morally permissible, so he does agree that if the FLO proposal implies that contraception is morally wrong, then the FLO proposal is incorrect. Marquis denies that the FLO proposal implies that contraception is morally wrong. Marquis argues that, unlike murder or abortion, there is no individual being that is denied a FLO by contraception and therefore no morally wrong action is committed by using contraception.¹⁸⁹ In order to show this, Marquis notes that there are four beings or sets of beings that are candidates for beings that are denied a FLO by contraception. These are individual sperm, individual eggs, groups consisting of individual sperm and eggs, and sperm-egg combinations. Individual sperm cannot be denied a FLO on grounds of arbitrariness: why is the sperm the being that is harmed, rather than the egg? Individual eggs cannot be denied a FLO on exactly the same grounds.¹⁹⁰ This problem of arbitrariness can be avoided by claiming that a group consisting of individual sperm and

¹⁸⁸ See page 201 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁸⁹ See page 201 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁹⁰ See page 201 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

eggs are collectively being denied a FLO, or that a sperm-egg combination is being denied a FLO. But, now it is hard to see how these groups or combinations have FLOs.¹⁹¹ As Marquis states, “At the time of contraception, there are hundreds of millions of sperm, one (released) ovum and millions of possible combinations of all of these. There is no actual combination at all. Is the subject of the loss to be a merely possible combination? Which one?”¹⁹² Keep in mind that once there is an actual combination of sperm and egg then the contraception has failed, a fetus has formed, and we are dealing with pregnancy rather than contraception. As a result, in contraception cases there is no being that can be singled out as being denied a FLO that is not either inadequate or arbitrary. This shows that contraception does not deny any being a FLO, and therefore the FLO proposal does not imply that contraception is morally wrong.¹⁹³

Marquis ends his defense of the FLO proposal with a quick review. It is clearly morally wrong to kill an innocent adult. If the reason why it is wrong to kill an innocent adult applies to fetuses, then it is also wrong to kill them. The FLO proposal claims that the reason why it is wrong to kill an innocent adult is that the killing deprives the victim of his or her valuable future. Fetuses also have valuable futures of which they are deprived by abortion; as a result, abortion is morally wrong. The rest of the defense of the FLO proposal given above is an exposition of why the FLO proposal is the explanation of the wrongness of killing that is most likely to be true: it avoids the usual problems that plague the common pro-abortion and anti-abortion arguments, it allows for

¹⁹¹ See pages 201-202 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁹² See pages 201-202 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁹³ See page 202 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

euthanasia to be morally permissible, and so forth. As a result, the FLO proposal should be accepted as the correct explanation of the wrongness of killing, which in turn means that abortion should be considered to be almost always morally wrong.¹⁹⁴

4.2: FLO and Potentiality

Before continuing with Marquis and the FLO proposal, let us temporarily turn to another anti-abortion proposal that turns up fairly frequently in the literature. This proposal is called the potentiality proposal. The simple version of this proposal says that since fetuses have the potential to become beings like us, and killing us is wrong, that potential to become beings like us makes it wrong to kill them.¹⁹⁵ This simple version is not very plausible, since potential beings are not actual beings. One example of this fallacy in reasoning, given by Judith Jarvis Thomson, concerns children and voting: children have the potential to become adults, and adults have a right to vote, but this does not mean that children also have a right to vote now simply because they have the potential to gain the right to vote.¹⁹⁶ Likewise, the facts that it is wrong to kill innocent adults and fetuses have the potential to become innocent adults, taken together, do not

¹⁹⁴ See page 202 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

¹⁹⁵ This proposal is not really defended to any meaningful degree in the philosophical literature, although it is criticized somewhat frequently. This appears to me to be the case primarily for two reasons: because this view is a simple and straightforward view that seems to be common in the popular literature on abortion, and because this view is difficult to defend for a variety of reasons such as Thomson's criticism. See, for example, the following: Devolder, Katrien. "Human Embryonic Stem Cell Research: Why the Discarded-Created- Distinction Cannot Be Based on the Potentiality Argument." *Bioethics* 19.2 (April 2005): 167-186. Perrett, Roy W. "Taking Life and the Argument from Potentiality." *Midwest Studies in Philosophy* 24 (2000): 186-198. Warren, Mary Anne. "Do Potential People Have Moral Rights?" *Canadian Journal of Philosophy* 7.2 (June 1977): 275-289.

¹⁹⁶ Thomson, Judith Jarvis. "Abortion." Written for the Summer 1995 issue of *Boston Review*. Available as of 1 November 2009 at: <http://bostonreview.net/BR20.3/thomson.html>.

imply that it is wrong to kill fetuses any more than it implies that they have a right to vote. As a result, the simple version of the potentiality proposal should be rejected as completely unhelpful at best.

Perhaps a more complex version of the potentiality proposal could avoid these problems. This is where Marquis enters back into the picture.¹⁹⁷ Marquis agrees that the simple version of the potentiality proposal does not work for the reasons given above.¹⁹⁸ Marquis argues that the potentiality proposal can and does work as a potentiality-based version of the FLO proposal.¹⁹⁹ For example, according to Marquis, a potentiality-based version of the FLO proposal “locates the wrongness of killing us in our present potential to experience, in our futures, the goods of life.”²⁰⁰ This potential is being used in a different way than potentiality is usually used in the abortion debate. Potentiality is usually used to go from “X has Y” and “Z is a potential X” to “Z has Y.” This does not work, as with Thomson’s right to vote example given above. A FLO as a potential, on the other hand, goes from “X has Y, which is a potential” and “Z has Y, which is a potential” to “X and Z must be treated the same regarding Y.” If it is wrong to kill an innocent adult because of his or her potential to experience a future of value, and a fetus

¹⁹⁷ This complex version of the POT proposal is defended in the literature as one interpretation of the arguments of Don Marquis. See, for example, the following. Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202. Marquis, Don. “Jacobs’ Objections to the Future of Value Argument.” *Southwest Philosophy Review* 20.2 (July 2004): 147-153. Page 90 of: Marquis, Don. “An Argument that Abortion is Wrong.” Hugh LaFollette, ed. *Ethics in Practice: An Anthology (Second Edition)*. Oxford: Blackwell, 2002. 83-93.

¹⁹⁸ See page 90 of: Marquis, Don. “An Argument that Abortion is Wrong.” Hugh LaFollette, ed. *Ethics in Practice: An Anthology (Second Edition)*. Oxford: Blackwell, 2002. 83-93.

¹⁹⁹ See page 147 of: Marquis, Don. “Jacobs’ Objections to the Future of Value Argument.” *Southwest Philosophy Review* 20.2 (July 2004): 147-153. See also page 90 of: Marquis, Don. “An Argument that Abortion is Wrong.” Hugh LaFollette, ed. *Ethics in Practice: An Anthology (Second Edition)*. Oxford: Blackwell, 2002. 83-93.

²⁰⁰ See page 147 of: Marquis, Don. “Jacobs’ Objections to the Future of Value Argument.” *Southwest Philosophy Review* 20.2 (July 2004): 147-153.

also has this same potential to experience a future of value, then it is wrong to kill the fetus. Logically speaking, this is no different than the perfectly acceptable and rational argument that because it is wrong to torture me because it causes me pain, and torturing you would cause you pain, then it is wrong to torture you. As a result, the potentiality-based version of the FLO proposal avoids the problems that plague usual versions of the FLO proposal.²⁰¹

Let us now consider what a full argument for the FLO version of the potentiality proposal would look like. The potentiality proposal starts with a completely uncontroversial claim. This claim is that it is wrong to kill any innocent adult. Why is it wrong to kill innocent adults? It cannot be due to some active property or usage of capabilities or anything else requiring activity. This is because the claim that killing innocent adults is wrong because it stops or prevents performing valuable activities has many obvious counterexamples. For example, temporarily comatose adults are incapable of currently performing any valuable activity, yet clearly it is still wrong to kill them. Therefore, the reason why killing innocent adults is wrong must be located elsewhere. What about potentiality? Some types of potential clearly will not work. One example would be the simple option discussed above: the potential to become a certain sort of being cannot explain why it is wrong to kill innocent adults since there are many obvious counterexamples. All natural-born US citizens over 35 years old who have lived in the US for at least 14 consecutive years are potential Presidents of the US, but that does not mean that all US citizens get access to nuclear launch codes just like the actual President

²⁰¹ See page 90 of: Marquis, Don. "An Argument that Abortion is Wrong." Hugh LaFollette, ed. *Ethics in Practice: An Anthology (Second Edition)*. Oxford: Blackwell, 2002. 83-93.

of the US. Another example would be the potential to gain certain properties. Many different life forms may have the potential to gain the morally relevant properties of adult human beings by being able to evolve them over a very long period of time, but these creatures do not have these properties now, nor is it wrong to kill them now. For example, let us say for the sake of argument that rock lobsters, as a species, have the potential to gain the morally relevant properties of adult human beings over the course of a million years of further evolution. It does not follow from this that the Red Lobster restaurant chain is currently one of the most genocidal institutions in world history.

What about the potential to perform valuable activities? This potential can be cashed out as a dispositional property. Any innocent adult who performs valuable activities also has the dispositional property to perform those valuable activities in certain situations, and so this potential covers usual cases of why it is wrong to kill innocent adults. Furthermore, the dispositional property remains even if the valuable activities cannot be performed at the present moment. This means that this potential avoids all of the counterexamples mentioned above. The temporarily comatose still have the dispositional property, and so it is wrong to kill them. Rock lobsters do not have the dispositional property to perform valuable activities, and so it is not wrong to kill them. Therefore, the potentiality proposal claims that it is wrong to kill innocent adults because it ends their potential to perform valuable activities. The potentiality proposal then claims that fetuses have the same dispositional properties as innocent adults due to fetuses being human and becoming innocent adults. If both of these claims are accepted, then it trivially follows that abortion is morally wrong. It is morally wrong to kill

innocent adults because it ends their potential to perform valuable activities. Because fetuses have this same potential and this potential is ended by abortion, it follows that abortion is just as wrong as murdering an innocent adult.²⁰²

As a result of the above arguments, it appears that a FLO version of the potentiality proposal is the only version that can possibly work. Due to this, I will consider the potentiality proposal to be a version of the FLO proposal and thus stop treating them separately. Objections to the FLO proposal will also be objections to the potentiality proposal, and if the FLO proposal fails, then the potentiality proposal also fails. With this in mind, let us now turn to the usual objections to the FLO proposal.

4.3: The Usual Objections

Marquis argues that because we have a FLO, a fetus will have the exact same sort of FLO. Compare this with a young child: a young child has a FLO since he or she will become an adult just like you or I and therefore has the exact same sort of FLO as you or I. The fetus is just another step backwards in that same being's development. The conclusion to be drawn from the main anti-abortion argument is now obvious: since it is wrong to kill us because we have a FLO, and fetuses have a FLO, it is wrong to kill fetuses and thus abortion is morally wrong.²⁰³

²⁰² Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202. See also: Marquis, Don. "Jacobs' Objections to the Future of Value Argument." *Southwest Philosophy Review* 20.2 (July 2004): 147-153. See also page 90 of: Marquis, Don. "An Argument that Abortion is Wrong." Hugh LaFollette, ed. *Ethics in Practice: An Anthology (Second Edition)*. Oxford: Blackwell, 2002. 83-93.

²⁰³ See pages 192-193 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

There are two common objections to the FLO proposal. The first objection is put forward by Bonnie Steinbock and others, and is a more advanced version of the contraception objection that Marquis anticipates and addresses. Steinbock argues that the FLO proposal entails that sperm and eggs have a FLO, contrary to what Marquis claims, and it is therefore wrong to kill them. If this is correct, then the FLO proposal has the obviously incorrect implication that actions such as using contraception and engaging in male masturbation are, just like abortion, the moral equivalent of murder. Since a proposal with obviously incorrect implications cannot be correct, it would then follow that the FLO proposal is incorrect, ought to be rejected, and does not show that abortion is morally wrong. To see how this objection works, consider the above simplification of Marquis's argument for the FLO proposal that compares a young child and a fetus: since a young child has a FLO, a fetus also has a FLO since it is the next developmental stage backwards from the young child. Steinbock simply goes back another developmental stage and makes the exact same claim. If fetuses have a FLO since they will become children, then why don't sperm and eggs have a FLO since they will become fetuses which will become children?²⁰⁴

Remember that Marquis's response is that, unlike murder or abortion, there is no individual being that is denied a FLO by contraception and therefore no morally wrong action is committed by using contraception. This is because individual sperm and eggs do not have individual FLOs, and groups or combinations of sperm and eggs are merely

²⁰⁴ See page 476 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482.

possible arrangements and as such do not have FLOs.²⁰⁵ Steinbock's reply to Marquis is, in effect, that there is no reason to accept his analysis of which beings have FLOs and which do not. In particular, Steinbock rejects as groundless the claim that individual sperm and eggs lack FLOs. There are two main reasons for thinking that individual sperm and eggs lack FLOs. One reason is that sperm and eggs do not have FLOs if left alone, but only if fused together such that the sperm and egg cease to exist as separate individuals. Steinbock argues that this reason cannot work because it applies equally well to fetuses. A fetus does not have a FLO if left alone, but only if it is in an appropriate environment such as a uterus. If it is still wrong to kill fetuses because it deprives them of their FLOs even though fetuses cannot have a FLO if left alone, then contraception should also be wrong because it kills sperm or eggs and thereby deprives them of their FLOs even though sperm and eggs cannot have a FLO if left alone.²⁰⁶ The other reason is that sperm and eggs do not have FLOs because sperm and eggs are separate entities while a fetus is a single entity. Thus, while a single entity can have a FLO, separate entities cannot share a FLO. Steinbock argues that this is just a baseless assertion: it seems more plausible to say that sperm and eggs have the exact same FLO as the fetus into which they fuse since they are physically contiguous in exactly the same way that a fetus is contiguous with the young child it becomes and thereby has the same

²⁰⁵ See pages 201-202 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

²⁰⁶ See page 477 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482.

FLO as the young child. Because all of the main reasons given for supporting the claim that individual sperm and eggs lack FLOs do not work, Marquis's response to the contraception objection also does not work as it is dependent upon this claim.²⁰⁷

Steinbock also rejects the claim that groups or combinations of sperm and eggs are merely possible arrangements and as such do not have FLOs. This claim is based upon the fact that there are millions of sperm-egg groups and combinations that can occur during conception, and none of them are actual and therefore have a FLO until a fetus is formed.²⁰⁸ Steinbock argues that *in vitro* fertilization or IVF provides a counterexample to this claim. During certain IVF procedures a single sperm is directly injected into a single egg to force them to fuse into a fetus. Steinbock argues that in this case there is only one sperm-egg group and combination before the fetus is formed, and as a result the sperm and egg are physically contiguous with the fetus into which they fuse in exactly the same way that a fetus is contiguous with the young child it becomes and thereby has the same FLO as the young child. It seems to follow that the sperm-egg groups and combinations can have FLOs. Since the only difference in the case of contraception is that there are millions of extra sperm present, the claim that these extra groups and combinations make all of the groups and combinations merely possible and without FLOs appears to be mistaken. A more accurate analysis seems to be that the extra groups and combinations make it impossible to determine which group or combination has a FLO

²⁰⁷ See pages 476-477 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482. Consider also examples such as medically inseparable Siamese twins. These are other cases where two separate entities can be reasonably thought to have a joint FLO due to the connection between the two beings.

²⁰⁸ See pages 201-202 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

before fusion, but the group or combination that will fuse does have a FLO in the exact same way that the group or combination in the IVF case has a FLO. Because the claim that groups or combinations of sperm and eggs are only possible and as such do not have FLOs is shown to be false by the counterexample of IVF procedures, Marquis's response to the contraception objection also does not work as it is dependent upon this claim. As a result of the above, it is reasonable to conclude that the FLO proposal implies that contraception is as morally wrong as murder. Since this is false, it follows that the FLO proposal and its anti-abortion implications ought to be rejected.²⁰⁹

Remember that Marquis anticipates and addresses basic arguments for the claim that the FLO proposal is limited in scope, and thereby has pro-abortion rather than anti-abortion implications. The second common objection to the FLO proposal is put forward by David Boonin and others, and is a more advanced argument for this claim. In particular, Boonin argues that only beings with a conscious life can have a FLO. Boonin develops this argument by analyzing four different properties that desires or beliefs can have: occurrent, dispositional, actual, and ideal. Any given desire or belief can be either occurrent or dispositional. Occurrent desires or beliefs are those that are presently before your mind. Dispositional desires or beliefs are those that you clearly have but are not presently before your mind. Boonin uses the example of the belief that a triangle has three sides to demonstrate this distinction: you clearly had the belief that a triangle has three sides prior to reading this sentence but you were most likely not thinking about it, so it was dispositional prior to reading this sentence and then it became occurrent once

²⁰⁹ See page 477 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482.

you thought about it.²¹⁰ In addition, any given desire or belief can be either actual or ideal. Actual desires or beliefs are those that you actually possess, whether they are occurrent or dispositional. Ideal desires or beliefs are those that you would possess, based upon your actual desires and beliefs, if you had all relevant information. Boonin uses the example of a man hiking on a dangerous trail to demonstrate this distinction. The man comes to a fork in the path, where the left path is shorter, more beautiful, and is littered with hidden land mines of which the man is unaware. The man's actual desire is to take the left path because it is shorter and prettier. The man's ideal desire is to take the right path because his actual desire to live outweighs his actual desire to have a nice stroll and if the man were aware of the land mines then he would take the right path. In other words, ideal desires are actual desires that are corrected for faulty information or reasoning.²¹¹

Boonin then argues that a FLO consists of a being's ideal dispositional desires, as these are what make up the value of a being's valuable future. We know from Marquis's own analysis of cases such as killing hermits that the value of a FLO cannot consist of value to others, or else it would be morally permissible to kill some people that we know it is morally wrong to kill. We know from examples like the temporarily comatose that the value of a FLO cannot be grounded in occurrent desires or other morally relevant active properties, because it is morally wrong to kill the temporarily comatose even though they have no occurrent desires or other morally relevant active properties. We know from examples like the suicidal that the value of a FLO cannot be grounded in

²¹⁰ See page 65 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

²¹¹ See pages 70-72 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

actual desires or something similar, because it is morally wrong to kill the suicidal even though the suicidal have the actual desire to die. It therefore appears that there are two options for what the value of a FLO consists in: Marquis's view that a FLO is valuable because it is either valued by a person now or will come to be valued by the person later, or Boonin's view that a FLO is valuable because it is ideally dispositionally valued by a person now.²¹²

Boonin argues that his view of what the value of a FLO consists in is better than Marquis's view for three reasons. First, it is simpler because it requires positing fewer morally relevant entities. Boonin's view only needs one morally relevant entity, namely present ideal desires, while Boonin claims that Marquis's view needs at least two, namely present desires and future states of affairs or something similar that will account for future desires. Second, it is easier to apply and fits in better with other moral theories. Boonin's view of FLOs makes them a subdivision of the broader and commonly used moral theory that it is *prima facie* wrong to frustrate desires. Marquis's view of FLOs, on the other hand, requires additional explanation of why future states of affairs or something similar that will account for future desires is morally relevant. Third, it handles the exact same examples that Marquis's view handles but also handles other examples with which Marquis's view has trouble. One example is that of the permanently suicidal person. Marquis's view has trouble accounting for this example because this person appears to be in the same situation as a terminally ill person since neither appears to have a valuable future ahead, such that it is morally permissible to kill

²¹² See pages 60-64 and page 73 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

them. It also seems that the permanently suicidal person should be treated exactly the same as a typical suicidal person, such that it is morally wrong to kill them. Marquis needs to offer additional explanation to reconcile these two things and thereby address the example. Boonin's view has no trouble with this example because the permanently suicidal person has ideal dispositional desires that value his or her valuable future, so it is morally wrong to kill him or her. Another example is that of the cheating husband who claims that his actions are morally permissible because his wife does not currently have the desire that he be faithful to her. Boonin's view has a direct answer for why the cheater is doing something morally wrong: his wife does currently have a present dispositional desire that he be faithful to her, and his actions violate this. Contrast this with Marquis's view, which claims that the cheater should consider his wife's feelings in the future. The cheater can respond to Marquis by claiming that he will be faithful then but does not need to be now, which in turn requires further work on Marquis's part to address the example. For these reasons, Boonin's view of the value of a FLO appears to be better than Marquis's view.²¹³

The problem for the FLO proposal is that Boonin's version implies that only beings with a conscious life can have a FLO. This is because a FLO basically is a set of present ideal dispositional desires for the future. But ideal desires are actual desires that are corrected for imperfect or incomplete information, which means that you cannot have ideal desires unless you also have actual desires. Since only beings with a conscious life have actual desires, it follows that only beings with a conscious life can have ideal

²¹³ See pages 73-77 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003.

desires, including having a FLO. This means that the FLO proposal, when limited in scope as in Boonin's version, actually has pro-abortion rather than anti-abortion implications. Fetuses, at least for the majority of their development, do not have conscious lives since they do not have the brain development necessary for consciousness. This means that fetuses cannot have FLOs, which in turn means that it is not wrong to kill them any more than it is wrong to destroy an inanimate object that does not have a FLO due to not being able to have a conscious life.²¹⁴

I do not want to object to these sorts of reply to the FLO proposal, but rather to offer a different and complementary sort of reply. I will argue that the nature and ontology of time create a dilemma for the FLO proposal: either it does not show that abortion is morally wrong, or it is vulnerable to the same objections as the SUB proposal.

4.4: The Nature of Time

There are three main plausible views about the nature of time or, more specifically, what times are real.²¹⁵ Another way to think about these main views about the nature of time is that each provides a method of figuring out the list of all entities that exist. I will use the entities Abraham Lincoln, the Lincoln Memorial, and the first human clone to visit the Lincoln Memorial as respective examples from the past, present, and future to show how each of these main views about the nature of time treats different entities as well as how they handle change in the world.

²¹⁴ See pages 79-81 and 115-129 of: Boonin, David. *A Defense of Abortion*. New York: Cambridge University Press, 2003. See also pages 474-478 of: Steinbock, Bonnie. "Why Most Abortions are Not Wrong." Steinbock, Arras, and London, eds. *Ethical Issues in Modern Medicine (Sixth Edition)*. Boston: McGraw-Hill, 2003. 471-482.

²¹⁵ This entire section is based upon the following: Dowden, Bradley. "Time." *The Internet Encyclopedia of Philosophy*. Fieser and Dowden, eds. <<http://www.utm.edu/research/iep/t/time.htm>>. Accessed on 13 September 2008. Markosian, Ned. "Time." *The Stanford Encyclopedia of Philosophy* (Fall 2008 Edition, forthcoming). Zalta, Edward N., ed. <<http://plato.stanford.edu/archives/fall2008/entries/time/>>. Accessed on 13 September 2008.

The first main view is called presentism. Presentism holds that there is no such thing as the past or the future, and as a result the present is the only time that is real. In other words, the only states of affairs that exist are the world at the present moment and subsets thereof, and the list of entities that exists consists entirely of the entities in the temporal present. On presentism, the term “exists” is shorthand for the tensed term “exists now.” The present is constantly changing as entities cease to exist and new entities come into existence. We can talk about the past and the future, but they are just shorthand for things in the present: thoughts about or facts about or effects that resulted from things that were once a part of the present, the results of laws of nature on what will be a part of the present, what we imagine that the world was like or will be like, and so forth. According to presentism, Abraham Lincoln does not exist because he is not in the present. Abraham Lincoln used to exist because he was once a part of the present, and we can talk about him now by referring to our thoughts about him and so forth. The Lincoln Memorial exists because it is in the present, and when we talk about it we are referring to the actual entity. The first human clone to visit the Lincoln Memorial does not exist because he or she is not in the present. This clone may become a part of the present, and we can talk about him or her now by referring to our thoughts about him or her and so forth.²¹⁶ Strictly speaking, only the Lincoln Memorial exists of these three entities according to presentism.

²¹⁶ In the case of presentism (and also in the case of the growing block theory as regards the future), it may be helpful to compare usage of the terms “Abraham Lincoln” and “the first human clone to visit the Lincoln Memorial” to the usage of terms referring to fictional characters, such as “Bilbo Baggins.” Just as it is a difficult question as to what is being referenced when one says “Bilbo Baggins” because something is being referenced even though Bilbo Baggins does not exist, it is a difficult question as to what is being referenced when one says “Abraham Lincoln” or “the first human clone to visit the Lincoln Memorial” because they are being referenced even though they do not exist. As has been noted, there are many

The second main view is called the growing block theory. The growing block theory holds that there is no such thing as the future; consequently, only the past and the present are real. In other words, the only states of affairs that exist are the world at the present moment, the world at all previous moments, and all subsets thereof, and the list of entities that exists consists of all entities in either the temporal present or the temporal past. The present is constantly changing as new entities come into existence and other entities pass out of the present and into the past. We can talk about the future, but it is just shorthand for things in the present or past: the results of laws of nature on what will be a part of the present, what we imagine that the world will be like, and so forth.

According to the growing block theory, Abraham Lincoln exists. He does not exist in the present, but he was once a part of the present and is now a part of the past. When we talk about him we are referring to the actual person who was the 16th President of the United States and died in 1865 and not just our thoughts about him or the like. The Lincoln Memorial exists because it is in the present (as well as in the past since it has existed for more than one moment), and when we talk about it we are referring to the actual entity. The first human clone to visit the Lincoln Memorial does not exist because he or she is not in the present or the past. This clone may become a part of the present, and we can talk about him or her now by referring to our thoughts about him or her and so forth. Strictly speaking, this clone is the only one of these three entities that does not exist according to the growing block theory.

possible options for resolving these difficulties, but examining which one is best is not necessary for the arguments that I develop, so I will set this issue aside.

The third main view is called eternalism. Eternalism holds that all times are equally real, so the past, present, and future are all real. In other words, the only states of affairs that exist are the world's entire history and all subsets thereof, and the list of entities that exists consists of all entities that are, ever were, or ever will be in the temporal present, the temporal past, or the temporal future. The present is constantly changing as entities come into the present from the future and other entities pass out of the present and into the past.²¹⁷ When we talk about an entity we are referring to the actual entity regardless of its temporal location. According to eternalism, Abraham Lincoln exists. He does not exist in the present, but he was once a part of the future and then the present and is now a part of the past. When we talk about him we are referring to the actual person who was the 16th President of the United States and died in 1865. The Lincoln Memorial exists because it is in the present (as well as the past, since it has existed for more than one moment, and the future, since it will exist for a while longer), and when we talk about it we are referring to the actual entity. If humans will ever be cloned, then the first human clone to visit the Lincoln Memorial exists because it is in the future and the future is real. This clone will become a part of the present and then the past, and when we refer to him or her we are referring to the actual person, who will result from a cloning procedure, will live, will visit the Lincoln Memorial, and will die, all at times after the present moment. Strictly speaking, all three entities exist according to eternalism.

²¹⁷ This is meant as an explanatory aid and not as a comment on A-Theory versus B-Theory or the like. It does not matter for my purposes whether the present under eternalism is an actual quality that moves from each moment of time to the next in order like a searchlight scanning across the timeline or is just convenient shorthand to refer to a certain time that has no other significance. As such, I will not be spending any more time on this aspect of eternalism.

Of course, there is much more to all three of these views, as well as the philosophical debate over which of them is correct and why. This involves issues such as which view fits best with the theory of relativity, or which view can best account for the apparent passage of time that is a key part of our consciousness, or how each view relates to other debates such as those over free will and determinism, and so forth. This would take us too far afield, and is unnecessary to boot. All that is needed for the purposes of my arguments are that these are the three main plausible views about the nature of time, and that these three views have the above implications concerning which times – and therefore entities – are real. As that has been covered, let us move on to how they create a problem for the FLO proposal.

4.5: FLOs on Presentism and the Growing Block Theory

What can a FLO be on each of these views? Let us start with presentism. Since the present moment is the only real time if presentism is true, this entails that the only entities that exist are those that exist in the present moment. As a result, a FLO must be a property that exists in the present. This seems trivial at first, but it actually has important implications. A FLO cannot be a part of the future if there is no future. Likewise, a FLO cannot exist because of future events, nor can a FLO be a relation between a being and its future or future states of affairs, and so forth. If presentism is true, then there are no actual valuable futures to be had by any being. This means that, if presentism is true, then a FLO must be a property that exists in the present that is also about the present in some way. In other words, if presentism is true, then the truthmaker for the claim “X has a FLO” must be some state of affairs or the like that exists solely in the present moment. After all, while there are many ways to combine the different views of the nature of time

with the truth-values and truthmakers for future-tense propositions, I take it as a given that the following is true regardless of which view one takes: if there is no truthmaker for the claim “X has property P,” then “X has property P” is false.²¹⁸ If presentism is true and someone claims that the truthmaker for any given person’s having a FLO is the actual valuable future of that person or anything similar, then it seems safe to say that no one has a FLO because, for all X, there cannot be a truthmaker for the claim “X has a FLO.”

This establishes that if presentism is true, then a FLO must be a property that exists in the present moment and the truthmaker for the claim “X has a FLO” must be some state of affairs or the like that exists in the present moment.. The question that now arises is the following: what properties are available that meet these criteria, can reasonably be considered to be a FLO, and show that abortion is morally wrong? We know that it cannot be a present action or immediately exercisable capacity or the like. This is because these sorts of properties seem to imply that it is morally permissible to kill sleeping people and temporarily comatose people due to their being unable to act. Likewise, it cannot be a present valuation or the like, because this would seem to imply that it is morally permissible to kill suicidal people because they do not value their lives at the present. In addition, it seems that it cannot be a present relation because it is difficult to see what present relations could possibly grant a right to life. It appears that the only real options that remain for what a FLO can be if presentism is true are dispositions or capacities, since all other possibilities have been exhausted.

²¹⁸ At least this is the case if “X has property P” is neither a brute fact nor a necessary truth. This caveat is irrelevant for my arguments because it is clear that Marquis believes that “X has property P” is neither a brute fact nor a necessary truth when P is “having a FLO.”

Now a problem arises for the FLO proposal: claiming that what it means for a being to have a FLO is that the being has a dispositional property or inherent capacity to perform valuable activities in certain situations or become a rational moral agent or the like means that the FLO proposal reduces to the SUB proposal. After all, the SUB proposal claims that what makes it wrong to kill innocent adults such as you or me is that we are the sort or type of being, namely a human substance, that essentially possesses a right to life. The SUB proposal also claims that substances are, at least for creatures, defined by the properties – in particular a set of second-order dispositions and capacities – that are inherent in and naturally developed by most members of a given type of substance as well as essential to each member of said type of substance. In the case of human substances, these are second-order dispositions and capacities to perform valuable activities in certain situations or become rational moral agents or the like.²¹⁹ If a FLO consists entirely of these same sorts of dispositions or capacities, then there is no meaningful difference between the FLO proposal and the SUB proposal as regards what makes it wrong to kill innocent adults. But this means that, because the FLO proposal is just the SUB proposal in different words, the FLO proposal is subject to the same problems as the SUB proposal. Since the SUB proposal should be rejected due to the arguments provided in Chapter 3, it follows that the FLO proposal should also be rejected for the same reasons.

²¹⁹ Beckwith, Francis J. "The Explanatory Power of the Substance View of Persons." *Christian Bioethics* 10.1 (January-April 2004): 33-54. Lee, Patrick. "The Pro-Life Argument from Substantial Identity: A Defence." *Bioethics* 18.3 (June 2004): 249-263.

The same holds if the growing block theory is true, since both the growing block theory and presentism hold that the future does not exist and the present does. The addition of the past being real does not seem to add anything relevant to what a FLO can be on the growing block theory, since there are no past properties or relations to past entities or states of affairs that could plausibly both grant a right to life and can reasonably be considered to be a FLO. As a result, if either presentism or the growing block theory is true, then the FLO proposal is open to the exact same objections to which the SUB proposal is open. This is important because one of the main motivations for the FLO proposal is that it is supposed to avoid the various commitments of other anti-abortion proposals, which in turn is supposed to make the FLO proposal more acceptable and less vulnerable to objections.²²⁰ It therefore appears that if either presentism or the growing block theory is true, then the FLO proposal is the SUB proposal in disguise and thereby ought to be rejected for the same reasons shown in Chapter 3: either it has highly implausible ethical implications when dealing with cases other than abortion or it does not show that abortion is morally wrong.

4.6: FLOs on Eternalism

Let us now turn to the remaining plausible view about the nature of time, namely eternalism. Eternalism holds that the past, present, and future are all equally real. As a result, there are many more possibilities for what a FLO can be if eternalism is true. We can quickly rule out many of these possibilities because they are the same as, and thereby have the same problems as, the possibilities that were available if presentism or the

²²⁰ Marquis himself argues that the SUB proposal does not work, and this is given as the main motivation for developing the FLO proposal. See pages 183-189 of: Marquis, Don. "Why Abortion is Immoral." *The Journal of Philosophy* 86.4 (April 1989): 183-202.

growing block theory is correct. In other words, we can rule out all properties, states of affairs, relations, and so forth that involve only the present, only the past, or a combination of the two. As a result, if eternalism is going to help the FLO proposal, then we must look solely to the new options for what a FLO can be that are provided by the future being real. There are two broad categories of these new options for what a FLO can be. The first is future entities: future properties, future states of affairs, and so forth. The second is relations to the future, such as relations between the being in the present and future states of affairs involving the being and the like. What would it mean if a FLO were one of these new options?

In order to answer this question, we must first review an important point about eternalism. Eternalism holds that all times are equally real, or in other words that all entities with a temporal location exist regardless of what the temporal location is. Abraham Lincoln, the Lincoln Memorial, and the first clone to visit the Lincoln Memorial (should humans ever be cloned) all exist if eternalism is true. This implies that truths about the future have the same ontological status as truths about the past and present and have always been true: all truths are eternally true and tenselessly true on eternalism, including future truths. For example, the proposition “at time t_1 , X has property P” is tenseless. Regardless of how it is filled out, this proposition is true or false at all times if eternalism is true, including at times that appear to us to be present while t_1 is in our future. Compare this to presentism or the growing block theory: for a t_1 in the future, this proposition is false or lacks a truth value altogether since it has no truthmaker, or it has a truth value due to a truthmaker in the present such as deductive or probabilistic extrapolation from other present truths. To put it another way, consider the propositions

“Abraham Lincoln died in 1865,” “the Lincoln Memorial is in Washington, D.C.,” and “the first clone to visit the Lincoln Memorial was born in New Hampshire.” All of these propositions, including the last one on the assumption that humans will be cloned, must be either true or false at all times if eternalism is true. If the last proposition lacked a truth value, then eternalism would be false because the truthmakers for future truths would not be on an ontological par with the past and present since it would need to “become” the present or past in order to have the same status as a truthmaker.²²¹

But when we consider the implications of this important point, it turns out that if eternalism is true, then it has always been true that every aborted fetus was going to be aborted and had no future afterwards. In other words, for any given fetus F, the proposition “at time t1, F is aborted” has a truth value at t1 and at all times. This means that for every F that is aborted at some time t1, this proposition is true at all times. But the truth of this proposition entails the truth of the proposition “there is no time later than t1 at which F would value anything or possess anything that is of value.” Keep in mind that, at least in its broad interpretation, a FLO is meant to encompass everything that a being values, everything that a being has that is valuable, and everything that a being would value or would possess that is of value.²²² The true proposition that “there is no time later than t1 at which F would value anything or possess anything that is of value,” in turn, entails that F has no FLO should a FLO involve the actual future in any

²²¹ Dowden, Bradley. “Time.” *The Internet Encyclopedia of Philosophy*. Fieser and Dowden, eds. <<http://www.utm.edu/research/iep/t/time.htm>>. Accessed on 13 September 2008. Markosian, Ned. “Time.” *The Stanford Encyclopedia of Philosophy* (Fall 2008 Edition, forthcoming). Zalta, Edward N., ed. <<http://plato.stanford.edu/archives/fall2008/entries/time/>>. Accessed on 13 September 2008.

²²² See pages 189-190 of: Marquis, Don. “Why Abortion is Immoral.” *The Journal of Philosophy* 86.4 (April 1989): 183-202.

meaningful way. In other words, if eternalism is true and a FLO involves the actual future in some way, then abortion never deprives a fetus of a FLO because it has always been true that the fetus was going to be aborted before having a valuable existence.

Therefore, if eternalism is true and a FLO involves the actual future in some way, then the FLO proposal implies that all abortions are morally permissible because an abortion can never deprive anything of a FLO. This could bear repeating in different words: if eternalism is true and a FLO involves the actual future, then it is impossible to do anything that deprives something of a FLO. This includes not just abortion but also, for instance, murder. After all, if it is eternally and tenselessly true that I will die at time t_1 , which is when you murder me, you do not deprive me of a FLO because I never had a future beyond t_1 . Of course, this is not to say that if eternalism is true, then murder is morally permissible: like everyone else, defenders of eternalism think that murder is morally wrong. This demonstrates that if eternalism is true, then the FLO proposal not only cannot show why abortion is morally wrong, but in addition is incapable of showing why anything is morally wrong. In other words, if eternalism is true, then the FLO proposal cannot be the correct account of why it is wrong to kill innocent adults. As a result, if eternalism is true, then either the FLO proposal is still the SUB proposal in disguise or the FLO proposal cannot show that abortion is morally wrong. Either way, the FLO proposal ought to be rejected if eternalism is true.

4.7: FLO as a Modal or Counterfactual Claim

One can try to avoid the problems given above by attempting to make a FLO into a modal or counterfactual claim focused upon deprivation. If X murders Y at t_1 , then it can be claimed that X still deprives Y of his or her FLO because the modal or

counterfactual proposition “but for X’s action, Y would have valued things and possessed things of value” is true. Since the truth of this proposition is independent of the truth of the propositions “there is no actual future” for presentism and the growing block theory and “there is no time later than t_1 at which Y would value anything or possess anything that is of value” for eternalism, the arguments given above concluding that the FLO proposal cannot be the correct account of why it is wrong to kill innocent adults are mistaken. If X murders Y at t_1 , then X has committed a moral wrong by depriving Y of his or her FLO. Likewise, if a fetus is aborted, then a moral wrong has been committed by depriving the fetus of its FLO.²²³ I do not think that this can work for two reasons. First, I do not think that any modal or counterfactual “but for”-type truth can be the reason why it is wrong to kill anything. Consider the following example: you shoot me, and I die at t_1 as a result. Suppose that, had you not shot me, I would have died of a heart attack at t_1 for unrelated reasons. In this case, you clearly did something wrong by killing me, but the modal proposition “but for your actions, I would have had a FLO” is false. Other examples along these lines can be easily generated, such as the wrongness of killing the terminally ill against their will. This gives us good reason to think that using “but for”-type modal or counterfactual truths cannot be the correct account of why it is wrong to kill an innocent adult because there are clear examples where this account gives the wrong answers.

Second, I do not think that making a FLO into a modal or counterfactual claim avoids the force of my arguments. Why should we think that a modal or counterfactual claim along the lines of “but for X’s action, Y would have valued things and possessed

²²³ I would like to thank Dr. Pat Kain for bringing this to my attention.

things of value” is true in the first place? Furthermore, even if it is true, why should we think that “but for the abortion, the fetus would have valued things and possessed things of value” is also true? In order to establish that both of these claims are true, which must be done if this version of the FLO proposal is to succeed in filling in the main anti-abortion argument, we must know the truthmakers for these claims. The only plausible truthmakers that would establish both claims would be a common trait of innocent adults and fetuses. But, claiming that it is some set of common traits among all adults and fetuses that makes it the case that they will value things and possess things of value if left alone or something similar, and this is what makes it wrong to kill them, is just a rewording of the SUB proposal. After all, this claim only makes sense and establishes the truth of both of the modal or counterfactual claims given above if all adults and fetuses are the sorts of beings that have the dispositions or capacities to value and possess things of value or something similar. But this is exactly the same thing that the SUB proposal claims, namely that it is wrong to kill innocent adults and fetuses because they are the sorts of beings that are usually rational moral agents because they inherently possess the relevant dispositions or capacities such as valuation. As a result, making a FLO into a modal or counterfactual claim is the same as making the FLO proposal into a rewording of the SUB proposal. Since the SUB proposal should be rejected due to the arguments provided in Chapter 3, it follows that the FLO proposal should also be rejected for the same reasons.

4.8: Conclusion

Thus, having examined what a FLO can be on the three plausible accounts of the nature of time, the FLO proposal faces a dilemma. The first horn of the dilemma is that if either presentism or the growing block theory is true, or eternalism is true and FLOs are present properties with no relation to the future, then the FLO proposal is just a rewording of the SUB proposal and thereby vulnerable to the same objections as the SUB proposal. The second horn of the dilemma is that if eternalism is true and FLOs are present properties that exist because of the future or future properties or something similar, then the FLO proposal does not show that abortion is morally wrong because no fetus that is aborted ever had a FLO, in which case the FLO proposal cannot plausibly be used to make a sound version of the main anti-abortion argument. Either way, the FLO proposal cannot be used to fill in successfully the main anti-abortion argument and therefore does not support the anti-abortion position.

The third and fourth chapters reveal that the anti-abortion position as it currently stands has deep problems. The FLO proposal and the SUB proposal are the most plausible proposals put forward for providing a sound version of the main anti-abortion argument. The third chapter showed that the SUB proposal does not appear to work, since either it has implausible consequences or it does not show that abortion is morally wrong. The fourth chapter showed that the FLO proposal also does not appear to work, since either it does not show that abortion is morally wrong or it reduces to the SUB proposal and thereby runs afoul of the same problems. As a result, both proposals are either highly implausible or they fail to show that abortion is morally wrong once their

underanalyzed aspects are examined. If my arguments are correct, then there is no good reason to think that the main anti-abortion argument supports the anti-abortion position, which in turn gives us no good reason to think that the anti-abortion position is plausible.

In conclusion, a strong cumulative case for the pro-abortion position that abortion is morally permissible in at least the overwhelming majority of circumstances has been developed throughout this dissertation. The first chapter examines the current state of the abortion debate and argues against the Benefit of the Doubt Argument, concluding that we must rationally judge the abortion debate based upon a thorough rational analysis of the evidence in the form of arguments and reasons. The second chapter provides arguments that the current state of the abortion debate very strongly favors the pro-abortion position because one of the strongest pro-abortion arguments appears to be even stronger than previously thought due to circularity in the main objection against it. The third and fourth chapters provide arguments that the current state of the abortion debate very strongly favors the pro-abortion position because it seems that the two strongest anti-abortion arguments currently available appear to be seriously flawed for underanalyzed reasons. As a result, we have very good reason to believe that the pro-abortion position has a higher epistemic probability than the anti-abortion position. This means that the pro-abortion position is the one that should rationally be held to be true until and unless new and better arguments for the anti-abortion position are forthcoming.

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