

*The Ethics of Abortion:  
Women's Rights, Human Life, and the Question of Justice*

by Christopher Kaczor

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Christopher Kaczor begins his first chapter by imagining the feelings of a young woman confronting an unplanned pregnancy. He points out that all of us, in some way, have an inevitable involvement in her situation. In different degrees, health care providers, policy makers, legislators, voters, relief workers, and educators all have to confront abortion. Abortion affects our society not only in terms of the action itself but also as regards such issues as teen pregnancy, the increase in single parenthood, adoption rates, and stem cell research. Philosophically, abortion presses questions about personhood, rights, and equality. Entering into these questions in a spirit of respectful dialogue with those who disagree with him, Kaczor argues that “the vast majority of abortions are morally impermissible” (12).

Chapters 2 through 5 address the issue of when “personhood” begins. In chapter 2, Kaczor considers the view that personhood does not begin until some time after birth, so that both abortion and infanticide (up to a certain point) are permissible. In Michael Tooley’s view (and Peter Singer’s), personhood requires “(1) an awareness of his or her own existence (2) over time and in different places with (3) the capacity to have wants and (4) plans for the future” (18). On the grounds that we have no obligation to allow a potentially rational human to become actually rational, Tooley denies that a human’s potential to be rational means that it is already a person. In addition to pointing out difficulties with each part of Tooley’s definition of personhood, Kaczor notes that Tooley ignores that fact that a human possesses an active and intrinsic potentiality to be functionally rational, so that abortion destroys this potentiality rather than merely allowing it not to develop. Kaczor also responds to Jeff McMahan’s point that

severely cognitively impaired humans lack the potential for rationality. All members of the human species are ordered to a flourishing defined by the species, not by the abilities of individual members of the species. As Kaczor points out, there are ways to alleviate the sufferings of severely disabled humans without killing them. McMahan actually holds that one could permissibly harvest the organs of a healthy infant, under certain conditions, in order to save the lives of a few other infants. The result, Kaczor remarks, is “a vision of personhood that rests on the arbitrary decisions of the powerful against the weak” (36).

Most advocates of abortion oppose infanticide and hold instead that personhood begins at birth. Kaczor addresses this position in his third chapter. Mary Anne Warren identifies five traits associated with personhood and argues that humans who lack all five traits are not persons; the traits are consciousness, reasoning ability, self-motivated activity, communicative capacity, and self-awareness. On this view a fetus is not a person, but only a potential person who can indeed be killed to secure the well-being of an actual person (the mother). One difficulty with Warren’s five traits of personhood, Kaczor observes, is that in certain cases it would permit infanticide, which Warren herself does not support. Indeed, in trying to rule out infanticide, Warren gives reasons that should also rule out abortion, such as the large waiting list for adoption. Warren’s linking of personhood with rational functioning licenses at least some infanticide, and her argument that the emergence from the womb makes a fetus worthy to be considered a “person” requires the improbable supposition that rational functioning changes radically in the human fetus as it emerges from the womb.

Location, whether in the womb or out of it, cannot be a true indicator of personhood. Kaczor concludes that the view that personhood begins at birth requires an understanding of personhood that would exclude even many human adults.

Could it be, then, that personhood begins at some time during pregnancy? This view, which Kaczor discusses in chapter 4, is advocated by David Boonin, among others. According to Boonin, the fetus becomes a person, with a right to life, only when it can have desires of some kind, which happens only when the cerebral cortex develops organized electrical activity sometime around twenty-five to thirty-two weeks after conception. Kaczor points out that a desire is for a certain good, and so it would make more sense to link personhood to particular goods (above all, life). Furthermore, numerous babies are now born prematurely, before the full development of the cerebral cortex's organized electrical activity. The fact that such babies have a right to life, which Boonin seems to accept, reveals a contradiction in Boonin's approach. Kaczor examines a number of other possible points during pregnancy when the fetus might become a person: at viability, upon signs of fetal movement, with sentience, when a human-like appearance develops, with brain development, and on implantation of the embryo in the uterine wall. In each case, he finds loopholes that undermine the claim that personhood can be said to begin at this particular stage. He also addresses the view that personhood gradually develops on the basis of a variety of factors. The developmental view cannot answer why all members of the human species do not possess personhood. Certainly development increases the abilities of the human fetus, but why should the right to life depend on development? Developmentally, a twenty-year-old is more advanced than a two-year-old, but they have an equal right to live.

Chapter 5 reviews arguments in favor of the view that personhood begins at conception. Kaczor's key point is that it is dangerous to exclude any group of human beings from personhood. Arguments in

favor of such exclusion tend to rely on a "performance" view of personhood, according to which only those humans who can do certain things count as persons. By contrast, an "endowment" view of personhood values all members of the human species, not because of their function but because of their being. All members of the human species are ordered to human forms of flourishing, even if disabilities prevent some members from achieving this flourishing. Every human being has the right to move toward this flourishing, at the very least by not being killed. Kaczor also criticizes views that ground human personhood on mental continuity and thereby embrace a radical dualism of mind and body.

If personhood flows from the constitutive properties of the human species, then it is clear that the human embryo is a person who cannot permissibly be killed. Kaczor recognizes, however, that this position seems extreme to many people, for reasons that include the enormous difference between an embryo and an infant (let alone a fully developed adult), the fact that one embryo can divide into two separate embryos (twinning), the fact that two embryos can merge to form one zygote (tetragametic chimerism), and the fact that 50 percent of zygotes die before birth. How one regards the difference between the embryo and the infant will depend largely on whether one accepts the endowment view of personhood or the performance view. Regarding the embryo's capacity to divide into two separate embryos, Kaczor points out that there is no need to assume that the original person goes out of existence when the second arises. In the case of the fusion of two embryos into one, it may be that two persons cease to exist and a third comes into existence, or perhaps one dies and enables the existence of the other. Kaczor also points out that if there are doubts about the embryo's personhood, the benefit of the doubt ought to be on the side of the one whose very life is at stake, especially when we now recognize that all other attempts to exclude groups of humans from full personhood (e.g., as in slavery and the Holocaust) have been morally disastrous.

But even if the human embryo and fetus are persons, is it necessarily wrong to abort a person? Judith Jarvis Thomson argues that, even supposing that the fetus is a person, a woman is not required morally to continue sustaining the life of the fetus. On this view, to continue to sustain someone else's life is a generous act but not a morally necessary one, as is especially evident in cases where the fetus has "intruded" into the womb against the woman's will (e.g., in cases of rape or contraceptive failure). Kaczor points out, however, that abortion involves not merely refusing to sustain the fetus's life, but actively destroying the fetus's life. Intentionally killing another person differs sharply from simply allowing another person to die. Nor is the fetus an intruder. An intruder has committed an aggressive action, whereas the fetus has simply been conceived through no fault of his or her own. Nor can parents reject their duties to their children simply because these duties have not been explicitly chosen, just as children have duties toward aging parents whether or not the children explicitly choose to have such duties.

This brings us to the hard cases, most notably when the fetus has been conceived by rape or incest or when the life of the mother would be threatened by bringing the fetus to term. After pointing out that these cases account for only a tiny percentage of the estimated 46 million abortions performed each year around the world, Kaczor addresses the issue of a fetus conceived by rape by noting, essentially, that two wrongs do not make a right. Killing an innocent fetus cannot undo the horrible violence perpetrated by the rap-

ist. With regard to cases when the mother's life is in danger, Kaczor appeals to double-effect reasoning that excludes directly killing the fetus but allows for actions that save the life of the mother even if, indirectly, these actions result in the death of the fetus. He also notes that there are hard cases that need to be faced by proponents of abortion, including the widespread practice of abortion for sex selection, in which female fetuses are almost always the victims. In a final chapter, Kaczor asks whether, if scientists could develop artificial wombs to which fetuses unwanted by their mothers could be moved, this development would resolve the abortion debate to the satisfaction of both sides.

This book is a major achievement that will benefit both undergraduate students and established scholars. Kaczor addresses the central moral issue of our day and engages the best arguments of those who disagree with him. At certain points, his argument might be strengthened by a full-fledged account of human nature; he tends instead to rely simply on notions of human flourishing. Perhaps the final chapter on artificial wombs could have been dispensed with, but it does at least get us thinking about what it would take to end the abortion debate. In the contemporary academy, writing against abortion is largely a thankless task. For writing against it so carefully and persuasively, Kaczor deserves our thanks and gratitude.

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